1988

Robin L. Hough v. Joel E. Colley : Brief of Respondent

Utah Court of Appeals

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IN THE SUPREME COURT OF THE STATE OF UTAH

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ROBIN L. HOUGH,

Respondent and Cross-Appellant,

v.

JOEL E. COLLEY,

Appellant and Cross-Respondent.

Case No. 860025

88-0123-CA

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RESPONDENT'S BRIEF

Appeal from the Judgment of the Third District Court
in and for Salt Lake County
The Honorable Dean E. Conder, Presiding

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RESPONDENT'S BRIEF

STATEMENT OF ISSUES

In addition to those issues that Appellant has raised, Respondent presents the following issue on her cross-appeal:

Did the trial court err in failing to recognize the common law marriage that had occurred between the parties in the states of Texas, Pennsylvania, Montana, and Colorado before they moved to Utah?

NATURE OF THE CASE

Plaintiff-Respondent Robin L. Hough (hereinafter "Ms. Hough") filed this action against Defendant-Appellant Joel E. Colley (hereinafter "Dr. Colley") seeking the termination of the common-law marriage existing between the parties and the distribution of the substantial assets that the parties had jointly acquired during the tenure of that relationship. (Amended Complaint, R. at 19-37, as amended R. at 835-36.) In the alternative, Ms. Hough sought the dissolution of the partnership created between the parties and the distribution of the assets that the parties held jointly as partners. (Id.)

The trial court refused to recognize the common-law marriage that had occurred between the parties before they moved to Utah but decreed that the partnership between the parties be dissolved, the valid and legitimate encumbrances be satisfied, and the remaining equity be divided equally between the parties in accordance with their agreement. (Findings of Fact and Conclusions of Law, R. at 1077-1081, reproduced infra at A-10 through A-14, and Judgment, R. at 1082-83, reproduced infra at A-15 through A-16.)

Dissatisfied with this result and apparently believing that he is entitled to retain for his personal benefit all of the property that the parties had jointly acquired during their

decade-long relationship, Dr. Colley appealed to this Court. (R. at 1107-08.)

STATEMENT OF FACTS

It was in the late summer of 1972 in Galveston, Texas, that the parties first met. (Tr. I at 3:25-4:3 and 5:8-10, R. at 1167-68 and 1169[1].) Ms. Hough, who had not previously been married, was 22 years of age and attending the University of Texas, majoring in occupational therapy. (Tr. I at 4:2-5, R. at 1168.) Dr. Colley, who had been married at age 19 and divorced within a couple of years (Tr. II at 97:20-24, R. at 1487), was just entering the final year of medical school at the same institution (Tr. I at 5:24, R. at 1169). Ms. Hough had located a large apartment above a grocery store in Galveston and was looking for another student with whom to share the expenses of that housing. (Tr. II at 79:22-25, R. at 1469.) The parties met by chance and Dr. Colley accepted Ms. Hough's offer to share the accommodations. (Tr. I at 5:11-6:11, R. at 1169-70.)

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[1]The trial transcript in this case appears in three volumes. For reasons unknown to Respondent, the court reporter did not prepare the transcript in chronological order; very generally, the testimony of the Respondent appears in Volume I, the testimony of the other witnesses in Volume II, and the ruling of the Court in Volume III. For clarity, the transcript will be cited by Roman volume number, Transcript-pagination page: line and Record pagination page (i.e., "Tr. I at 3:24-4:3, R. at 1167-68" refers to Volume I at line 24 on page 3 through line 3 on page 4, which is found at pages 1167 through 1168 of the Record).

At first, Ms. Hough and Dr. Colley each had their own living quarters and shared only common facilities such as the kitchen. (Tr. II at 82:3-24, R. at 1472.) Each led their own academic and social lives, and each continued to date their respective boy- and girl-friend. (Tr. II at 81:1-4, R. at 1471 and Tr. I at 7:13-17, R. at 1171.) Soon, however, a relationship developed between the parties, which led to romantic, and then sexual, involvement. (Tr. I at 7:10-13, R. at 1171 and Tr. II at 83:9-13, R. at 1473.) In short, they "both fell head over heels in love." (Tr. I at 8:12, R. at 1172.)

As the academic year ended, Dr. Colley learned that his internship would be served in Philadelphia. (Tr. I at 9:16-17, R. at 1173.) Recognizing the significance of their relationship and the complications inherent in the internship and residency necessary to complete Dr. Colley's medical education, the parties consulted with a professor and counselor at the University of Texas whom they respected, Dr. Robert Cresonne. (Tr. I at 9:3-10:12, R. at 1173-74.) Together, the parties explained to Dr. Cresonne that they had "a committed relationship" (Tr. I at 9:22-23, R. at 1173) and that they had agreed to "be faithful to each other" (Id. at 9:24-25) and to "combine all of [their] financial resources and emotional and physical resources" (Tr. I at 9:24-10:3, R. at 1173-74). They told Dr. Cresonne

that they had "a marriage relationship that would continue." (Tr. I at 10:2-12, R. at 1174.)

Ms. Hough also took Dr. Colley to meet her parents at their home in April of 1973. (Tr. I at 10:15-16, R. at 1174.) Her parents were distressed because the parties had not participated in a ceremonial marriage. (Tr. I at 12:15-16, R. at 1176.) The parties reassured Ms. Hough's parents that "at that point in time our relationship had made a change from being in a sense a casual relationship of just living together and enjoying college times, to a relationship where from that point forward we were going to be a married couple." (Tr. I at 12:11-15, R. at 1176.) Dr. Colley also commented that the parties "did not need a piece of paper to prove to anyone the level of [their] commitment." (Id. at 12:23-25, R. at 1176.)

When classes ended for the summer of 1973, Dr. Colley moved to Philadelphia for his internship. (Tr. II at 93:15-19, R. at 1483.) Ms. Hough had to complete six weeks of an "externship" in Indianapolis to earn her degree in occupational therapy. (Tr. I at 13:6-13, R. at 1177.) Most of the parties' combined furniture and belongings was shipped to Philadelphia (Tr. I at 206:9-16, R. at 1370) and Ms. Hough joined Dr. Colley there as soon as her "externship" was completed. (Id.)

The parties remained in Philadelphia for approximately a year while Dr. Colley completed his internship. (Tr. II at

99:2, R. at 1489.) Ms. Hough took a job as an occupational therapist in the psychiatric ward of the University of Pennsylvania Hospital in Philadelphia. (Tr. I at 14:2-5, R. at 1178.) She and Dr. Colley opened joint checking accounts and continued to pool their resources. (Id. at 14:8-14, R. at 1178.) Dr. Colley gave to Ms. Hough a set of wedding rings that had belonged to his mother (Tr. I at 75:19, R. at 1239), who had been killed in a traffic accident shortly before the parties first met in Texas (Tr. II at 77:13-19, R. at 1467). Dr. Colley completed, in October of 1983, a written application to participate in the anesthesiology residency program at the University of Colorado. (Tr. II at 294:1-3, R. at 1681.) That application was received into evidence (Tr. I at 20:18, R. at 1184) as Exhibit 5-P (reproduced infra at A-19 through A-20). In that application, Dr. Colley represented that he was married. (Id.) At about the same time, he also applied to the University of Utah for an anesthesiology fellowship. (Tr. II at 292:23-293:21, R. at 1679-80 and Tr. I at 18:15-25, R. at 1182.) In that application (received, Tr. I at 19:9, R. at 1183, as Exhibit 4-P, reproduced infra at A-17 through A-18), Dr. Colley again represented that he was married. (Id.) In April of 1974, while still in Philadelphia, the parties had a conference with their accountant as to how

their 1973 taxes should be filed. (Tr. I at 15:11-16:5, R. at 1179-80.) Dr. Colley told the accountant that "we're common-law married" (Tr. I at 16:15-17, R. at 1180) and the parties filed a joint tax return, representing under penalty of perjury that they were "married filing jointly." (Tr. I at 16:18-19, R. at 1180.)

At the completion of Dr. Colley's internship, the parties moved, during the summer of 1974, to Hot Springs, Montana, where Dr. Colley had made arrangements to open a private practice. (Tr. I at 22:1-2, R. at 1186.) Again, the parties opened joint accounts and comingled their funds (Id. at 22:14-15, R. at 1186), although maintaining separate "professional" accounts for Dr. Colley's medical practice and Ms. Hough's practice as a therapist. (Tr. I at 22:14-15, R. at 1186 and Tr. I at 24:17-25:6, R. at 1188-89.) Upon their arrival in Hot Springs, Montana, a reception was held for Dr. Colley at which he introduced Ms. Hough as his wife. (Tr. I at 24:4-25:21, R. at 1188-89.) The parties purchased a house in Hot Springs to which they took title as "Joel E. Colley and Robin H. Colley." (See, Exhibit 20-P reproduced in part infra at A-33 through A-40.) While the parties lived in Hot Springs, Montana, Dr. Colley stated to Ms. Hough's brother that they had a common-law marriage and there was, therefore, "no problem" with filing joint tax returns. (Tr. I at 28:6-11, R. at 1192.)

In early 1975, after only a few months in Montana, Dr. Colley wanted to move so that he might attend an anesthesiology residency program. After "vacationing" for several weeks (Tr. I at 28:18-25, R. at 1192), the parties lived in Texas again for five or six months (Tr. I at 29:1-4, R. at 1193), and then moved to Denver, Colorado (Tr. I at 32:21-24, R. at 1196). Dr. Colley participated in the residency program at the University of Colorado (Tr. I at 33:1, R. at 1197) and Ms. Hough became employed as the Director of Occupational Therapy at the Presbyterian Hospital (Tr. I at 38:6-8, R. at 1202). Again, the parties combined their economic resources (Tr. I at 38:11, R. at 1202) and purchased a home, taking title as "husband and wife" (Tr. I at 33:9-35:23, R. at 1197-99, and see Exhibits 8-P and 9-P reproduced infra at A-21 and A-22 through A-25.) The parties filed tax returns for 1974 and 1975 again representing, under penalty of perjury, that they were "married, filing jointly". (Tr. I at 43:21-24, R. at 1207.)

After only a few months, Dr. Colley became disenchanted with the residency program at the University of Colorado (Tr. II at 114:21-24, R. at 1504) and decided to move to Salt Lake City so that he could complete his anesthesiology residency at the University Medical Center (Tr. I at 39:1-5, R. at 1203). Ms. Hough accepted a position at Holy Cross Hospital here in Salt

Lake City as its Director of Occupational Therapy. (Tr. I at 39:9-12, R. at 1203.) The parties together purchased residences here in Salt Lake City, first on Claiborne Avenue (Tr. I at 45:16-18, R. at 1209) and, later, on Northcliffe Drive (Tr. I at 46:21-22, R. at 1210). Ms. Hough continued as Director of Occupational Therapy at Holy Cross Hospital until March of 1978 (Tr. I at 44:21-22, R. at 1208), when, at the suggestion of Dr. Colley, she left that position to begin a career in real estate (Tr. II at 124:20-125:7, R. at 1514-15).

Having attained her real estate license, Ms. Hough involved herself in the acquiring of real estate for her and Dr. Colley's mutual benefit. (Tr. I at 45:10-15, R. at 1209.) Ms. Hough evaluated and located numerous properties that the parties, together, purchased. (See generally, Tr. I at 46-52, R. at 1210-16.) Title to these properties was generally acquired in their joint names. (See, e.g., id. and Exhibits 10-P through 23-P and 39-P, received Tr. I at 52:15, R. at 1216.) It was Ms. Hough's responsibility to locate, evaluate, manage, clean, rent, and repair their properties. (Tr. I at 52:19-53:8 and 54:5-21, R. at 1216-17 and 1218.) While Ms. Hough did not discuss in detail every aspect of every transaction with Dr. Colley, handling the ministerial details of the parties' real estate investments herself, the parties did discuss any major decisions. (Tr. I at 184:2-10, R. at 1348.)

The combined income of the parties rose dramatically as their respective careers developed. While in Philadelphia, Dr. Colley earned little from his internship and Ms. Hough earned approximately $15,000 per year as an occupational therapist (Tr. I at 120:11-14, R. at 1284). While they were in Montana, Dr. Colley's income from his private practice began to increase and Ms. Hough's income from her practice as a therapist also increased so that, on an annual basis, she would have been earning approximately $24,000 (see, Tr. I at 120:19-21, R. at 1284). While in Colorado, Dr. Colley was in a residency program but Ms. Hough was again earning approximately $15,000 per year in her position as Director of Occupational Therapy (Tr. I at 120:22-24, R. at 1284). By 1976, the parties' incomes were approximately equal. (Tr. II at 119:21-24, R. at 1509.) By 1980, Dr. Colley's income was approximately $100,000 and by 1983 he was earning well in excess of $120,000. (Tr. I at 201:18-21, R. at 1365.) By 1984, Ms. Hough had increased her annual earnings to $59,500. (Tr. I at 142:3, R. at 1306.)

During the tenure of their relationship within the state of Utah, the parties together purchased parcels of real estate, some of which were sold at a profit to purchase other parcels but many of which were still owned in their joint names at the time of the trial. At the time of the trial, the parties

owned properties on Northcliffe, Leslie, 9th Avenue, Browning, Wilson, and 700 East Streets in Salt Lake City; property on Flathead Lake and in Hot Springs, Montana, as well as land near Spring Creek, Nephi, and Deer Valley, Utah. (Findings at ¶7, R. at 1079, infra at A-12.) Additionally, the parties jointly held the sellers' interest under a real estate contract arising from their sale of property on Roberta Street in Salt Lake City. (Id.) Additionally, Dr. Colley's pension plan had a net asset value of approximately $100,000 as of the parties' separation according to their 30 June 1981 financial statement. (See, Tr. II at 17:8-15, R. at 1407.) Dr. Colley's accountant also testified that, prior to trial, the net asset value of the pension plan had risen to approximately $300,000. (Tr. II at 326:5, F. at 1713.)

While Ms. Hough acknowledges that there was no specific agreement that she would be compensated for her time or effort in locating, managing, and administering the substantial real estate holdings being acquired and traded by the parties (Tr. I at 146:4-8, R. at 1310), the agreement between the parties was that, should they ever separate, all of their holdings would be divided equally (Tr. I at 186:6-19, R. at 1350). Dr. Colley reassured Ms. Hough that even property held in his name alone would be equally divided should they separate. (Tr. I at 187:20-25, R. at 1351.)

At trial, this aspect of the partnership between the parties -- now critical to this appeal -- was firmly corroborated by the testimony of three independent witnesses. Dr. Wirt Hines testified that, in 1977 and 1978, Dr. Colley frequently told him that he had an arrangement with Ms. Hough that they would share everything "50-50" if they "split up." (Tr. II at 57:11-14, R. at 1447.) Similarly, June Lambert testified that Dr. Colley told her that, if Dr. Colley and Ms. Hough should separate, their property would be "divided equally." (Tr. II at 63:4-6, R. at 1453.) Dr. Donald Heinig testified that during the winter of 1980, Dr. Colley told him that if Dr. Colley and Ms. Hough ever separated, there would be a "50-50 split" of their properties. (Tr. II at 72:20-22, R. at 1462.)

Additionally, the parties' agreement as to the manner in which their partnership property was to be divided was further documented when they both acquired a one-third interest in a travel agency. The acquisition of this interest necessitated that the parties each obtain a fidelity bond. (Tr. I at 56:10-57:1, R. at 1220-21.) In connection with the application for that bond, the parties had to submit a schedule of their assets. (See, Exhibits 24-P and 25-P, received Tr. I at 57:13 and 59:3, 3, R. at 1221 and 1223, reproduced infra at A-26 through A-29 and A-30 through A-32.) Dr. Colley wrote in his own hand on both

schedules of the parties' properties that "(1) Joel E. Colley, M.D. is 1/2 owner of Properties below (2) Robin L. Hough (Colley) is 1/2 owner of Properties below." (Tr. I at 57:25 and 58:21, R. at 1221 and 1222 and Exhibits 24-P and 25-P infra at A-29 and A-32.

The parties frequently celebrated their "anniversary" on August 24, the date that they believed that they had first met in Galveston, Texas. (Tr. I at 110:6-15, R. at 1274.) For the last two years of their relationship, the parties attended sessions with a marriage counselor (Tr. I at 62:19-24, R. at 1226) but the parties separated in late October of 1981. Dr. Colley testified that he was "devastated" by this separation. (Tr. II at 175:22-176:2, R. at 1565-66.)

Acrimony followed in the wake of the separation and the parties were unable to agree as to either the management or the disposition of their properties. At one point, Dr. Colley, through threats and coercion (Tr. I at 216:15-217:7, R. at 1380-81), obtained from Ms. Hough signed Quit Claim Deeds to all the properties (Tr. I at 218:2-12, R. at 1382); however, he gave no consideration for these deeds (Tr. I at 218:16-23, R. at 1382) and did not rely upon them at trial. After the separation of the parties, Dr. Colley alone continued to receive the substantial tax benefits from the parties' properties. Dr. Colley admitted

that these benefits had an actual value to him of at least $100,000. (Tr. II at 277:24-278:16, R. at 1666.)

SUMMARY OF ARGUMENTS

The evidence adduced at trial firmly supports the trial court's finding that a partnership existed between the parties. The parties, together, purchased numerous real properties with the expectation and intention that they would thereby increase their financial resources and the law implies a partnership in such circumstances.

The trial court also correctly applied the relevant law in determining that the properties accumulated by the parties as partners should be sold, the valid encumbrances be paid, and the equity be divided equally between the parties. The statutory distribution scheme advocated by Appellant is applicable only if the parties have not agreed on an alternate method of distribution. In this case, the trial court found, based upon a wealth of highly credible evidence, that the parties had agreed that, should they separate, their properties would be divided equally between them, notwithstanding the Appellant's allegedly greater financial contribution to the acquisition of the properties.

The trial court erred, however, in failing to recognize the common law marriage that had occurred between the parties in the states of Texas, Pennsylvania, Montana, and Colorado. Each

of those states recognizes common law marriage between parties who agree to be married, cohabit, and hold themselves out as or acquire the reputation of being married. Each state presumes the former requirement from a showing of the latter two. While Utah does not recognize common law marriages contracted by its residents, Utah must recognize common law marriages contracted by parties while residents of other states when those parties move to Utah and become Utah residents. In this case, the parties resided together as husband and wife in Texas, Pennsylvania, Montana, and Colorado, acquired and jointly held assets in each of those states, represented themselves to be husband and wife and, generally, acquired the reputation of being married. Accordingly, the trial court erred in failing to recognize the common law marriage that had arisen between these parties before they moved to Utah.

ARGUMENT

POINT I: THE TRIAL COURT'S RECOGNITION OF THE PARTNERSHIP AND DISTRIBUTION OF ITS ASSETS IS FIRMLY SUPPORTED BY SUBSTANTIAL EVIDENCE.

In his Appellant's Brief, Dr. Colley makes clear his dissatisfaction with the trial court's finding that a partnership exists and its decree that the assets of the partnership be sold, the valid and legitimate encumbrances be paid, and the remaining equity be divided equally. Dr. Colley does not clearly state what relief he seeks, asking merely that the trial court's determination "be reversed." Merely reversing the trial court's determination that a partnership existed would leave these parties as joint owners of property with respect to the management of which they are deadlocked. The impracticality of such a result is obvious.

A. A Partnership Existed Between the Parties.

The trial court was entirely correct in its determination that a partnership existed between these parties. This Court has long recognized that, essentially, a partnership is formed whenever two or more persons join together to carry on some activity for their common benefit, with each contributing property or services for their joint profit. Bentley v. Brossard, 33 Utah 396, 94 Pac. 736 (1908). The Partnership Act,

first adopted in 1921, is entirely consistent with that traditional definition of partnership, providing in Section 48-1-3, Utah Code Annotated (1953 as amended), that "a partnership is an association of two or more persons to carry on as co-owners a business for profit." Regardless of their marital status (discussed in Point II, infra), it is not disputed that Ms. Hough and Dr. Colley hoped to realize a profit from the properties that they purchased together (see, e.g., Tr. I at 45:11-13, R. at 1209, and Tr. II at 306:20-307:1, R. at 1693-94.)

Although Dr. Colley appears to argue in his brief (App. Br. at 8-13) that no partnership existed between him and Ms. Hough, he does not attempt to otherwise identify the legal nature of the relationship pursuant to which the parties acquired their substantial assets. He argues, without benefit of citation of legal authority, that a partnership could not have been created because Ms. Hough "was an unemployed college student." (App. Br. at 9.) Moreover, in asserting that "the record is devoid of any other evidence that a partnership existed" (App. Br. at 14), Dr. Colley ignores not only the substantial testimony of Ms. Hough on this issue, but also his own testimony.

On cross-examination, Dr. Colley was asked whether he recognized that a partnership existed between him and Ms. Hough. He first denied that he acknowledged the existence of such a

partnership (Tr. II at 301:24-302:6, R. at 1688-89), but then acknowledged that in earlier testimony he had in fact admitted that there "was a partnership . . . in my mind" (Tr. II at 303:11-12, R. at 1690). He also acknowledged that he had testified during his deposition as follows:

> Question: Did you feel that you were in a partnership with [Ms. Hough] in the purchase, acquisition, management of these properties?
>
> Answer: A partnership until [Ms. Hough] would consent to marry me.

Deposition of Colley at 104:17-20.[2] Since Dr. Colley has, himself, acknowledged the existence of a partnership with Ms. Hough, his protestations to this Court that the trial court erred in finding that such a partnership existed are palpably without merit.

Moreover, the conduct of the parties in acquiring a substantial number of properties together and trading those properties for profit is clear and appropriate evidence of their partnership. This Court held, in Bridgman v. Winsness, 34 Utah 383, 98 Pac. 186 (1908), that a partnership between father and son was amply and appropriately demonstrated by the

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[2] All of the pre-trial depositions were published by stipulation of the parties and order of the court. (Tr. I at 76:19-20, R. at 1240.)

conduct of the father and son in forming and carrying on their business activities. In so holding, this Court noted:

> The rule is well settled that the existence of a partnership may be implied from circumstances, and especially so where, as in this case, the facts and circumstances proved at the trial not only tended to show the existence of an actual partnership, but were inconsistent with any other theory.

34 Utah at --, 98 Pac. at 188. This observation is equally applicable to the present case, where it is abundantly clear from the evidence that Ms. Hough and Dr. Colley purchased, sold, and held numerous pieces of real estate with the intent to increase their financial resources. And this is exactly what Dr. Colley testified was his intention:

> Answer: . . . . The deal was to work toward getting properties --
>
> Question: Okay.
>
> Answer: -- that we would accumulate and she would accumulate and pay towards, so we would have this enormous amount of wealth that now looks like an enormous amount of debt.

Trial Transcript, Vol. II, at 306:20-25, R. at 1693. While Dr. Colley protested at trial that the properties that he had

accumulated together with Ms. Hough were of little value [3], this does not alter the fact that he has acknowledged that he and Ms. Hough purchased the properties together in the hope and for the purpose of making a profit.

Dr. Colley's own testimony firmly supports the trial court's finding that a partnership existed between the parties and that the parties purchased the various properties jointly with the expectation and with the purpose of making a profit. Under these circumstances, the challenge to the trial court's finding of a partnership is entirely without merit.

B. It Was the Parties' Specific Agreement That Partnership Assets Would Be Divided Equally.

Dr. Colley argues (App. Br. at 16-22) that, even if a partnership exists, the trial court misapplied the applicable law in distributing the properties owned by the parties at the time of trial. In essence, Dr. Colley argues that every dollar that he contributed to the partnership should be reimbursed to him out of the proceeds of the sale of the partnership

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[3] It can be noted in passing that his contention that the properties were of little value is belied by his refusal to share the properties with Ms. Hough, by his energetic defense of the action in the district court, and by his vigorous pursuit of this appeal following the trial court's decision to distribute the properties equally.

properties but that Ms. Hough should receive no reimbursement for her contribution of her time and talent in locating, investigating, evaluating, purchasing, managing, repairing, renting, and selling the parties' properties. The inequity of Dr. Colley's position is obvious and the trial court's rejection of it is sound.

1. The trial court did not deny Appellant reimbursement for the valid loans that he made to the parties' partnership. Rather, the trial court carefully ruled that "any mortgages signed by both parties for monies loaned by [Dr. Colley's] profit sharing plan," would be considered valid and those obligations would be repaid before the remaining equity in that particular property was distributed evenly between the parties. (Findings at ¶8, R. at 1080, reproduced infra at A-13.) Thus, it was only certain alleged mortgages, which had been signed only by Dr. Colley himself, that the Court found to be "self serving" and not to "constitute liabilities against the partnership assets." (Findings at ¶8, R. at 1080, reproduced infra at A-13.) As to those instances in which, prior to the onset of acrimony between the parties, both parties had recognized funds advanced by Dr. Colley to be a loan, the trial court properly endeavoured to preserve the parties' intent and provided for reimbursement to Dr. Colley.

2. The law does not require the distribution advocated by Appellant as the parties agreed to a different distribution.

Dr. Colley principally relies in support of his contention that the trial court erred in distributing the partnership property upon the provision of Section 48-1-37(2), Utah Code Annotated (1953 as amended). Dr. Colley's argument is that all of the money that Dr. Colley invested in the properties should have been reimbursed to him before Ms. Hough received any of the proceeds. (App. Br. at 16-20.) In his argument, however, Dr. Colley wholly overlooks the fact that the statute expressly provides that its rule of reimbursing partners "in respect of capital" before distributing the remaining profits to partners is "subject to any agreement to the contrary."

In this case, the trial court, based upon a wealth of substantial and credible evidence, found that there was, in fact, an 'agreement to the contrary.' For example, in the Findings of Fact (which were prepared by the trial judge himself, not by counsel for Ms. Hough), the Court expressly found that, "the parties were partners with an agreed understanding that they would share equally in all the property and the proceeds thereon." (Findings at ¶6, R. at 1079, reproduced infra at A-12.) The trial court also went on to find that the parties "understood and agreed that [Ms. Hough] would devote all her time and talents-to the property and [Dr. Colley] would contribute money but that both would share on an equal basis." (Id.) Moreover, the trial

court expressly found that "any funds put into the partnership by [Dr. Colley] were capital contributions matched by the efforts of [Ms. Hough]." (Findings at ¶10, R. at 1080, reproduced infra at A-13.) Accordingly, when Dr. Colley claims that the trial court misapplied the law by failing to reimburse him for his capital contributions before dividing equally the remaining equity in the property, Dr. Colley cavalierly ignores the language of the very statute upon which he relies since the parties were found by the trial court to have expressly agreed to an even distribution of the assets upon dissolution of the partnership.

3. The parties agreed to a distribution different from that advocated by Appellant. In his Memorandum Decision, the trial court noted that "any funds put into these properties by [Dr. Colley] were capital contributions matched by the efforts of [Ms. Hough]." (Memo. Dec. at 2, R. at 939, reproduced infra at A-8.) Thereafter, in response to a Motion to "Clarify Order" filed by Dr. Colley (R. at 554-55), a hearing was held at which the trial court specifically considered and refused Dr. Colley's request that the dollar amount of his financial contributions should be reimbursed to him before the remaining equity in the

properties was divided between the parties. Judge Conder noted that the ruling did not provide for such reimbursement

> because I took the position that [Dr. Colley] was the financier and that was his 50 percent whatever he put in to finance that

Trial Transcript, Vol. III at 11:26-12:1, R. at 1783-84. After further argument by Dr. Colley's counsel, Judge Conder reiterated the Court's ruling:

> Well, let me give you my thinking on that. As I reviewed the notes and everything, I thought okay, [Dr. Colley] was to be the financier; he had the money and he was to put up the money for the partnership and for the acquisition of the properties. Now, what he did was to take the money out of his profit sharing and put it into the acquisition of properties.

Id. at 14:17-14:23. These findings by the Court are entirely consistent with the substantial weight of the evidence adduced at the trial.

The evidence supporting the trial court's finding that the parties had agreed that, upon dissolution, the assets of the partnership would be evenly distributed between them notwithstanding Dr. Colley's allegedly greater economic contributions to the partnership, can only be characterized as strong and convincing. Not only did Ms. Hough testify that this was their agreement (e.g., Tr. I at 186-187, R. at 1350-1351), she also presented the testimony of no less than three independent wit-

nesses who had been told by Dr. Colley himself that this was indeed his agreement with Ms. Hough.

First, Dr. Wirt Anderson Hines II testified that he was acquainted with Dr. Colley through a training program at the University of Utah Medical Center. (Tr. II at 54-55, R. at 1444-45.) Dr. Hines testified that during the time he had known Dr. Colley, there had been conversations between them in which Dr. Colley discussed the entitlement that Ms. Hough would have to property that she had purchased with Dr. Colley in the event that they were to separate. (Tr. II at 55-57, R. at 1445-47.) Dr. Hines testified that in 1977 and 1978 he had had several conversations with Dr. Colley on this topic and it "was always [Dr. Colley's] contention that whatever they had acquired together in possessions, property, or whatever since they had begun living together, that they would divide up on a 50-50 basis." (Tr. II at 57:11-14, R. at 1447.)

Similarly, June E. T. Lambert testified that she had been a friend of Dr. Colley for several years and that she worked at Holy Cross Hospital where Dr. Colley had been on staff until shortly before the trial. (Tr. II at 61-62, R. at 1451-52.) She testified that she had had conversations with Dr. Colley in which the subject of the division that would occur in the property he and Ms. Hough had acquired together was discussed. (Tr. II at 62, R. at 1452.) These conversations occurred during 1976 and 1977.

(Id.) She testified that Dr. Colley told her that "in the event that anything should happen to the relationship, that their property would be divided equally." (Tr. II at 63:4-6, R. at 1453.)

Dr. Donald Heinig also testified that he was a social acquaintance of Dr. Colley. (Tr. II at 71, R. at 1461.) He testified that during the winter of 1980 he had a conversation with Dr. Colley in the parties' residence on Northcliffe Drive with respect to the property distribution that would occur in the event that Dr. Colley and Ms. Hough should separate. (Tr. II at 72, R. at 1462.) Dr. Heinig testified that Dr. Colley had "offered the information that if they ever split up, that there would be a 50-50 split." (Tr. II at 72:21-22, R. at 1462.)

The most graphic evidence attesting to the agreement between Ms. Hough and Dr. Colley that the partnership assets would be evenly divided upon any dissolution of the partnership is found, however, in Exhibits 24-P and 25-P, which bear a notation in Dr. Colley's own handwriting to the effect that he and Ms. Hough are equal owners of the real properties comprising the assets of the partnership. (See, Exhibits 24-P and 25-P, reproduced infra at A-26 through A-29 and A-30 through A-32.) These notations were made on the property schedules attached to applications for fidelity bonds that Ms. Hough and Dr. Colley

both needed in connection with their acquisition of equal interests in a travel agency business. The notations were made by Dr. Colley himself. (Tr. I at 57:25 and 58:21, R. at 1221 and 1222.) The notations read, "Joel E. Colley, M.D., is 1/2 owner of all Properties below [; and] Robin L. Hough (Colley) is 1/2 owner of all properties below." (Id. and see Exhibits 24-P and 25-P infra at A-29 and A-32.)

In the face of this massive amount of independent testimony and documentary evidence of the parties' specific agreement that, in the event of the dissolution of their partnership, the partnership assets would be divided evenly, Dr. Colley's protestations that the trial court erred in finding that they had such an agreement are entirely without merit. The trial court correctly applied relevant Utah law and gave effect to the parties' own agreement varying the statutory scheme, which is to be utilized only if the parties have not otherwise agreed. The trial court committed no error in the distribution of the partnership assets.

POINT II: THE TRIAL COURT ERRED IN FAILING TO RECOGNIZE THE COMMON LAW MARRIAGE THAT HAD COME TO EXIST BETWEEN THE PARTIES IN THE STATES OF TEXAS, PENNSYLVANIA, MONTANA, AND COLORADO.

The only error committed by the trial court in this case was in failing to recognize the common law marriage that had clearly arisen between Ms. Hough and Dr. Colley during the tenure of their relationship in the states of Texas, Pennsylvania, Montana, and Colorado. While the state of Utah does not, itself, recognize so-called "common law" marriages, the courts of this State are bound by the full faith and credit clause of the United States Constitution (U.S. Const. art. IV, §1) to recognize such marriages to the extent that they have arisen under the laws of other states.

A. Common Law Marriage Is Recognized in Texas, Pennsylvania, Montana, and Colorado.

In Texas, common law marriage is recognized both by statute and by the decisions of the Texas Supreme Court. By statute, parties are married if they agree to be married, live together as husband and wife, and represent to others that they are married. Texas Family Code, Section 1.91, reproduced infra at A-5. The same three criteria are recognized by case law as constituting a common law marriage. In re Glasco, 619 S.W.2d 567 (Tex. App. 1981); Salayndia v. State, 651 S.W.2d 825

(Tex. App. 1983); 8 Houston Law Review 10 (1970). Texas courts hold that the agreement to be husband and wife may be implied and need not be an express agreement and is ordinarily to be inferred from evidence establishing the other two elements of common law marriage. In re Glasco, supra. Texas holds that once a common law marriage exists, the subsequent denial of the marriage by one of the spouses does not dissolve the marriage. Estate of Claveria v. Claveria, 615 S.W.2d 164 (Tex. 1981).

In Pennsylvania, common law marriages are not recognized by statute but a common law or "informal" marriage is recognized by the courts. Estate of Stauffer, 462 A.2d 750 (Pa. 1983). If a man and woman cohabit and both are capable of contracting a marriage, and if they represent themselves as being husband and wife, a presumption is created that the parties have, in fact, contracted a marriage. McKenzie v. Harris, 679 F.2d 8 (3d Cir. 1982). It has been held under Pennsylvania law that parties who had resided together for nine years, been known by business acquaintances as husband and wife, had purchased a home and executed a mortgage together, and had acknowledged each other as spouses, were presumed to have been married and the criteria for determining the existence of a common law marriage under Pennsylvania law had been met. 679 F.2 at 10. It has been so held even though the wife had

continued to use her maiden name in her profession. Id. Pennsylvania, like Texas, recognizes a presumption that the parties have agreed to be married if they are capable of contracting a marriage and reside together.

In Montana, common law marriages are recognized by the courts and are expressly not invalidated by statute. (See, Section 40-1-403, Montana Revised Code Annotated, reproduced infra at A-6.) To establish a valid common law marriage in Montana, there must be mutual consent of the parties, followed by cohabitation, and reputation. Stevens v. Woodmen of the World, 105 Mont. 121, 71 P.2d 898 (1937). While there must be consent of the parties to be married, this consent need not be expressed in any particular form. Miller v. Townsend Lumber Company, 448 P.2d 48 (Mont. 1968). Additionally, this consent to the marriage may be implied from the conduct of the parties. (Id.) In Estate of Swanson, 502 P.2d 33 (Mont. 1972), the Montana Supreme Court held that the presumption that parties living together had consented to be married was not rebutted by the fact that the purported wife had continued to use her own name in her business, on her driver's license, and on her checking account. 502 P.2d at 37.

Colorado, also, recognizes common law marriages. Granham v. Granham, 130 Colo. 225, 274 P.2d 605 (1954). Colorado requires the party opposing a common law marriage to show by clear and

positive proof that the claimed marriage is invalid. Taylor v. Taylor, 10 Colo. App. 303, 50 Pac. 1049 (1897). Evidence of cohabitation and general repute create a presumption that the parties intended and have agreed to be married. (Id.) Common law marriage in Colorado may also be found to exist when the overall evidence is that the course of life and the conduct of the parties was consistent with a mutual recognition of a married status. See, Clark v. Clark, 123 Colo. 285, 229 P.2d 142 (1951).

B. A Common Law Marriage Contracted Outside the State of Utah Before the Parties Became Utah Residents Should Be Recognized.

A common law marriage cannot be contracted within the state of Utah. (See, Hendrich v. Anderson, 191 F.2d 242 (10th Cir. 1951).) Additionally, this Court has held that Utah will not recognize a common law marriage between Utah residents who travel into a state that does recognize such marriages for the express purpose of becoming married. (In re Vetas's estate, infra.) However, this Court has never held that Utah will not recognize as valid a common law marriage contracted between parties who were, at the time of that marriage, residents of another state and who subsequently moved into Utah and became Utah residents. Yet the latter is exactly what the trial court did in this case.

In In re Vetas's Estate, 110 Utah 187, 170 P.2d 183 (1946), this Court held that Utah would not recognize a common law marriage contracted in Idaho. However, the facts of that case are entirely distinguishable from those of the present action. In the Vetas case, the parties were Utah residents who traveled to Idaho for the express purpose of becoming married. The parties declared themselves married in Idaho, but went through no formal ceremony of any sort, and returned to Utah two days later. Thus, it was Utah residents who were attempting to contract marriage by common law. It was the Utah residency of the parties upon which this Court relied in determining that their common law marriage would not be recognized in Utah for probate purposes:

> [The alleged wife] made no claim that either she or [her alleged husband] ever had a domicile in Idaho. In fact, her testimony clearly shows that both were residents of Utah during the entire time in question, and that the parties went to Idaho for the sole purpose of marriage and with the intention of returning to this state almost immediately thereafter. . . .

110 Utah at --, 170 P.2d at 184. This Court then noted that it had previously been held that a common law marriage could not be contracted in this state. This Court was extremely careful,

however, to confine its holding to Utah residents attempting to contract a common law marriage in another state:

> What we may here say in resolving the question we confine to marriages of persons domiciled in Utah whose marriage in another state or country, while here domiciled, is brought into question; and shall assume, for the purposes of this decision, that in the enactments now under examination it was not the purpose to legislate with respect to the marriage in another jurisdiction of persons there domiciled.

110 Utah at --, 170 P.2d at 186 (emphasis added). The holding is, therefore, not applicable to the present case.

Additionally, in his concurring opinion, Justice Wolfe noted that Utah's no-common-law-marriage "policy may not be enforceable against non-residents of Utah who marry elsewhere and then take up residence in Utah." 110 Utah at --, 170 P.2d at 187. And Justice Wade in his dissenting opinion emphatically noted that:

> It would be a shocking situation for this state to attempt to declare all common-law marriages between people who come into this state to be void. . . .

110 Utah at --, 170 P.2d at 189. Unfortunately, it is just this "shocking situation" that the trial court has created in the present case by refusing to recognize the common law marriage that occurred between Ms. Hough and Dr. Colley long before they became Utah residents, indeed long before they ever traveled to the state of Utah.

Other jurisdictions that, themselves, refuse to recognize common law marriage, do nevertheless, recognize such marriages when contracted in other states. See, e.g., Parish v. Minvielle, 217 So.2d 684 (La. App. 1969); Bloch v. Bloch, 473 F.2d 1067 (3d Cir. 1973); and Franzen v. DuPont, 146 F.2d 837, (3d Cir. 1944). The social policies that justify Utah's refusal to recognize a common law marriage contracted in another state by Utah residents wholly fail to support an arbitrary refusal by this state to recognize marriages lawfully contracted by non-residents in their own home states when those persons subsequently become Utah residents. Such a holding would throw parties who are married by common law in other states and then become Utah residents into a state of legal limbo, necessitating vast amounts of judicial time to unwind their affairs upon separation.[4]

---

[4]The present case is a dramatic example of this unnecessary confusion. Three volumes of pleadings, three volumes of transcript, three days of trial, three dozen motions before the trial court, and thousands of pages and thousands of dollars of pre-trial depositions, dissipated the parties' (and the court's) resources largely because the parties could not (and still cannot) agree as to their legal relationship. Immediate recognition of their prior common law marriage would have obviated much of this effort.

C. The Relationship Between the Parties Met All the Criteria for Common Law Marriage.

As demonstrated above, the requirements for common law marriage in the states of Texas, Pennsylvania, Montana, and Colorado are in substance identical. They are that the parties agree to be married, that the parties live together as if they were married, and that the parties hold themselves out as married or have the reputation of being married. The relationship between Ms. Hough and Dr. Colley in the states of Texas, Pennsylvania, Montana, and Colorado, before they ever reached Utah, is amply adequate to meet each of these criteria. In the paragraphs that follow, the conduct of the parties as set forth in the Statement of Facts (supra at 3-14) will not be unnecessarily reiterated; however, it is important to note that the totality of the parties' conduct in those states is indicative of the fact that they considered themselves married, that they lived together as a married couple, and that they held themselves out as and acquired the reputation of a married couple prior to reaching Utah.

Maurine L. Rosamond was called as a witness at the trial of this action. Ms. Rosamond testified to the conversation that occurred between Dr. Colley, Ms. Hough, and her parents in

Texas in April of 1973. Ms. Rosamond testified that, during that conversation, Dr. Colley stated:

> Answer: That he and [Ms. Hough] were married in every sense of the word. It was only that there was not a piece of paper documenting that, and that was said over and over again.
>
> . . . .
>
> I specifically remember [Ms. Hough's] mother asking [Dr. Colley] what would happen if [Ms. Hough] came down with a cancer and [Dr. Colley] responding that he would be there. He would take care of her. He felt committed to that as he would a wife. He considered her his wife.

Tr. II at 36:23-25 and 37:9-13, and R. at 1426 and 1427. What more eloquent articulation could there be by Dr. Colley of his devotion to Ms. Hough and what more convincing evidence could there be that he considered her to be his wife?

The parties lived together from August of 1972 until their separation at the end of October of 1981 (see, e.g., Tr. II at 287-91, R. at 1675-79) Except for a brief absence while Ms. Hough completed her "externship" in occupational therapy. From 1973 on, they filed their income tax returns in which not only Ms. Hough but also Dr. Colley represented under penalty of perjury that they were "married." (See, e.g., Tr. II at 294-98, R. at 1681-85.) Additionally, as noted above, Dr. Colley represented that he was married and that his wife's name was "Robin" when he completed an application to the anesthesiology department

at the University of Utah Medical Center while residing in Pennsylvania. (See Exhibit 4-P, infra at A-17.) At about the same time, he similarly represented that he was married when he completed an application for residency in anesthesiology at the University of Colorado Medical Center. (See, Exhibit P-5, infra at A-19.)

Likewise, the parties took title to the property they purchased in Colorado as "Joel E. Colley and Robin Hough Colley" and Dr. Colley signed the trust deed to that property as "Joel E. Colley, husband." (See, Exhibits 8-P and 9-P, infra at A-21 and A-22 through A-25.) Similarly, when the parties purchased property in Montana, they held themselves out as husband and wife and purchased the property as husband and wife. (See, Escrow Receipt and Contract for Deed, part of Exhibit P-20, reproduced infra at A-33 and A-34 through A-40.)

With respect to the issue of the parties' reputation in the community, as noted in the Statement of Facts, supra at 7, Dr. Colley was given a reception on his arrival in Hot Springs, Montana, at which he introduced Ms. Hough as his "wife, Robin." Additionally, Ms. Hough offered at trial a newspaper article that appeared on Thursday, November 21, 1974, in the Sanders County (Montana) Ledger. That article, inter alia, refers to the parties and notes that "Dr. and Mrs. Joel Colley are using this

time to take a quick trip home to Texas to visit relatives." (See, proposed Exhibit 117-P, reproduced infra at A-41.) The newspaper article was, of course, offered to show the reputation of the parties in Montana as being husband and wife. Dr. Colley objected to the exhibit, claiming that it was hearsay (Tr. I at 214:22-23, R. at 1378) and the trial court sustained the objection but "as to the relevance" (Tr. I at 215:23, R. at 1379).

In sustaining that objection, the trial court erred. In the first place, the evidence was obviously relevant. Since one of the criteria for a common law marriage in Montana (as elsewhere) is that the parties held themselves out as and had the reputation of being married. The objection cannot, therefore, be sustained on the ground of relevance. Additionally, the newspaper article is not hearsay because it is not being offered for the purpose of proving that the parties were "using this time to take a quick trip home to Texas to visit relatives." Rather, it was being offered for the purpose of showing their reputation as "Dr. and Mrs. Joel Colley." Moreover, it was not being offered for the purpose of proving that they were in fact married but only for the purpose of showing that they had the reputation of being married. Thus, the article was not hearsay at all. And, finally, even if it was hearsay, the article would have been admissible under any one of several exceptions to the hearsay rule. Under Rule 803(19) of the Utah Rules of Evidence, the

testimony was admissible, even if hearsay, because it went to the "reputation . . . among associates or in the community concerning . . . marriage." Additionally, it would have been admissible, even if hearsay, under Rule 803(6) since the printed newspaper is in fact a business record of the publishing company, and under Rule 803(24) because the article in the newspaper is trustworthy because it was published long before litigation and was not in any way under the control of any of the parties to the action. What better evidence could there be of reputation in a community than statements contained in that community's local newspaper?

Accordingly, it is apparent that the parties' relationship and conduct and reputation were such that all of the criteria for the existence of a common law marriage, whether under the laws of Texas, Pennsylvania, Montana, or Colorado have been met and the trial court erred in failing to recognize here in Utah the common law marriage that these parties had validly contracted before they moved to this state.

CONCLUSION

There is ample evidence to support the trial court's determination that a partnership existed between these parties since they purchased numerous real properties with the intention of realizing a profit. The trial court correctly applied the parties' agreement that their assets would be divided equally in the event that they should separate. The statutory distribution scheme advocated by Appellant is applicable only if the parties have not reached some other agreement. Therefore, the trial court's determinations with respect to the partnership between the parties and the distribution of the assets of that partnership must be affirmed.

The trial court erred, however, in failing to recognize the common law marriage that had arisen between these parties while they were living in the states of Texas, Pennsylvania, Montana, and Colorado. While Utah does not recognize common law marriage between its residents, social policy strongly militates in favor of the recognition by Utah courts of preexisting common law marriages contacted by parties before they became Utah residents. The relationship and conduct of these parties before reaching Utah meets all criteria for common law marriage and that marriage should have been recognized and dissolved by the trial court in this case. At to this issue, this action must be remanded to the trial court so that the marriage existing between

the parties may be dissolved and their non-partnership assets may be appropriately distributed based upon all of the relevant circumstances.

RESPECTFULLY SUBMITTED this 11th day of June, 1986.

DART, ADAMSON & PARKEN

By _____
B. L. Dart

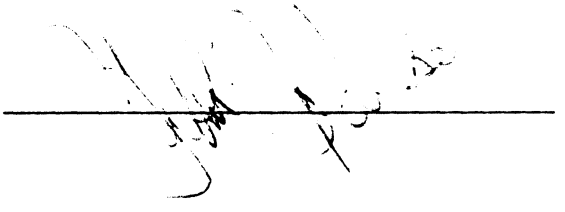
By _____
John D. Parken

Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of June, 1986, I caused four (4) true and correct copies of the foregoing Respondent's Brief to be mailed, with postage prepaid, and addressed to:

J. Thomas Bowen, Esq.
1020 Beneficial Life Tower
Salt Lake City, Utah 84111



ADDENDUM

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48-1-3. "Partnership" defined. A partnership is an association of two or more persons to carry on as co-owners a business for profit.

But any association formed under any other statute of this state, or any statute adopted by authority other than the authority of this state, is not a partnership under this chapter, unless such association would have been a partnership in this state prior to the adoption of this chapter; but this chapter shall apply to limited partnerships except in so far as the statutes relating to such partnerships are inconsistent herewith.

48-1-15. Rules determining rights and duties of partners. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property, and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(2) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(3) A partner who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(7) No person can become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

48-1-37. Rules for distribution. In settling accounts between the partners after dissolution the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are:

(a) The partnership property.

(b) The contributions of the partners necessary for the payment of all the liabilities specified in subdivision (2) of this section.

(2) The liabilities of the partnership shall rank in order of payment, as follows:

(a) Those owing to creditors other than partners.

(b) Those owing to partners other than for capital and profits.

(c) Those owing to partners in respect of capital.

(d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in subsection (1) of this section to the satisfaction of the liabilities.

(4) The partners shall contribute as provided by section 48-1-15 (1) the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and in the relative proportions in which they share the profits the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors, or any person appointed by the court, shall have the right to enforce the contributions specified in subsection (4) of this section.

(6) Any partner or his legal representative shall have the right to enforce the contributions specified in subsection (4) of this section to the extent of the amount which he has paid in excess of his share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in subsection (4) of this section.

(8) When partnership property and the individual properties of the partners are in the possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) Where a partner has become bankrupt or his estate is insolvent, the claims against his separate property shall rank in the following order:

(a) Those owing to separate creditors.

(b) Those owing to partnership creditors.

(c) Those owing to partners by way of contribution.

SUBCHAPTER E. MARRIAGE WITHOUT FORMALITIES

§ 1.91. Proof of Certain Informal Marriages

(a) In any judicial, administrative, or other proceeding, the marriage of a man and woman may be proved by evidence that:

(1) a declaration of their marriage has been executed under Section 1.92 of this code; or

(2) they agreed to be married, and after the agreement they lived together in this state as husband and wife and there represented to others that they were married.

(b) In any proceeding in which a marriage is to be proved under Subsection (a)(2) of this section, the agreement of the parties to marry may be inferred if it is proved that they lived together as husband and wife and represented to others that they were married.

40-1-403. Validity of common-law marriage. Common-law marriages are not invalidated by this chapter. Declarations of marriage pursuant to 40-1-311 through 40-1-313, 40-1-323, and 40-1-324 are not invalidated by this chapter.

History: En. 48-314 by Sec. 14, Ch. 536, L. 1975; R.C.M. 1947, 48-314.

Cross-References

Presumption of marriage, 26-1-602.

IN THE DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

ROBIN L. HOUGH, :

Plaintiff, : Memorandum Decision

vs : Civil No. D82-3064

JOEL E. COLLEY, :

Defendant. :

This matter was tried before the court on February 6, 1985. Written arguments have been submitted by each counsel. Both counsel have done an exhaustive job in researching the law and an excellent job in presenting the facts.

The parties commenced living together in Galveston, Texas, in August, 1972. Both were students and found initially that they could share expenses and save money by living together. They grew up in an era when living together was a vogue among many young people. The defendant obtained his medical degree and they moved from Texas to Pennsylvania to Montana to Colorado and to Utah. All of the foregoing states except Utah recognize a "common law marriage". The first issue before the court is whether the parties have formed a common law marriage in any one of the jurisdictions. The elements of such a marriage appear to be substantially the same in each of these jurisdictions, namely, (1) the parties must have agreed between themselves to be married;

(2) after such an agreement they must have lived together as man and wife; and (3) they must have held themselves out to the public as man and wife. Certainly, in this case there is no doubt that they lived together as man and wife. This court finds that the plaintiff has failed to meet the burden of proof as to the other two elements and therefore holds that there is no common law marriage.

During their "relationship" the parties have acquired substantial real estate here in Utah. The court finds that as to this property the parties were partners with an agreed understanding that they were sharing equally in all of the property. It was understood and agreed that the plaintiff would devote her time and talent to the property and that the defendant would contribute money but that both would share 50-50. The partnership property consists of the following: (1) 780 Northcliffe; (2) contract receivable on 1358 Roberta; (3) 382 Leslie; (4) 520 - 9th Avenue; (5) Deer valley lot; (6) 231 Browning; (7) 514 East Wilson; 770 South 7th East; (8) Flatfhead, Montana; (9) Hot Springs, Montana; (10) Nephi land; and (11) Spring Creek property. As to all other assets the court finds that the parties acquired these in their sole and separate property. The court finds that any funds put into these properties by the defendant were capital contributions matched by the efforts of the plaintiff. All of these properties should be liquidated and after paying any obligations to third parties the net proceeds should be divided equally between the parties.

Under these circumstances neither attorney's fees nor costs should be awarded to either party.

Dated this 11 day of March, 1985.

Dean E. Conder,

District Judge.

ATTEST
H. DIXON HINDLEY
CLERK
By Roy Robinson

Copies of the foregoing to be mailed to each counsel.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

ROBIN L. HOUGH,	:	
Plaintiff,	:	FINDINGS OF FACT AND CONCLUSIONS OF LAW
VS.	:	CIVIL NO. D 82-3064
JOEL E. COLLEY,	:	Hon. Dean E. Conder
Defendant.	:	

The above-entitled matter came on regularly for trial on the 6th, 7th and 8th of February, 1985, plaintiff appearing in person and by her attorney, B. L. Dart, and defendant appearing in person and by his attorney, J. Thomas Bowen, and witnesses including the parties having been sworn and testified, and exhibits having been received and the matter having been argued and submitted, and the Court having received post-trial briefs and having entered its Memorandum Decision, and there having been further argument on the interpretation and content of the Memorandum Decision, the Court now being fully advised, hereby makes the following:

FINDINGS OF FACT

1. The parties commenced living together in Galveston, Texas, in August 1972. Both were students and shared expenses and money by living together. They moved from Texas to Pennsylvania, to Montana, to Colorado and to Utah. All the foregoing

states except Utah recognizes common law marriage. The parties resided with each other until late October, 1981, when they separated.

2. During the nine-year period, defendant completed his last year of medical school at the University of Texas, a one-year internship at the University of Pennsylvania, and two years of residency in anesthesiology at the University of Colorado and the University of Utah. During this time the plaintiff obtained her college degree in Occupational Therapy. The parties lived together, filed joint income tax returns and purchased property. They did not agree between themselves to be married and did not sufficiently hold themselves out to the public as husband and wife to meet the requirements of a common law marriage. The court finds that there was no common law marriage between these parties.

3. During their relationship, the parties have acquired substantial real estate in the state of Utah and as to this property, the court finds the parties were partners under circumstances where each of the parties committed his or her total time, effort and talents to the partnership. This partnership is further evidenced by the manner in which the parties purchased the properties and held title and applications they filed for fidelity bonds in which they reflected their common ownership.

4. The parties ceased residing together on October 30, 1981.

5. On July 30, 1982, plaintiff filed this action for divorce. In June, 1983, plaintiff amended her complaint and also alleged that a partnership existed between plaintiff and defendant which partnership plaintiff requested be dissolved and that the assets of the partnership be equitably distributed.

6. The court finds that as to the real estate holdings of the parties hereinafter set forth in the next following paragraph, the parties were partners with an agreed understanding that they would share equally in all the property and the proceeds thereon. It was understood and agreed that the plaintiff would devote all her time and talents to the property and defendant would contribute money but that both would share on an equal basis.

7. The partnership property consists of the following:

a. 780 Northcliffe, Salt Lake City, Utah;

b. Contract receivable at 1358 Roberta, Salt Lake City, Utah;

c. 382 Leslie, Salt Lake City, Utah;

d. 520 - 9th Avenue, Salt Lake City, Utah;

e. Lot, Deer Valley, Utah;

f. 231 Browning, Salt Lake City, Utah;

g. 514 East Wilson, Salt Lake City, Utah;

h. 770 South 700 East, Salt Lake City, Utah;

i. Flathead, Montana;

j. Hot Springs, Montana;

k. Nephi, Utah;

l. Spring Creek property.

As to all other assets acquired during the relationship of the parties, the court finds the parties acquired these as their sole and separate property and not in partnership except as to properties in which the parties expressly had a partnership agreement which includes a half-interest in a lot in Cuernavaca, Mexico, and a partnership relating to a duplex on the west side of Salt Lake City.

8. The court further finds that as to any mortgages signed by both parties for monies loaned by defendant's profit sharing plan that said mortgages and liabilities thereon are to be recognized as valid. If there are mortgages signed only by the defendant, the court finds they are self-serving and do not constitute liabilities against the partnership assets.

9. The partnership agreement between the parties relating to the assets provided in paragraph 7 above terminated upon the trial of this case, and any contributions made by either of the parties to that time should be deemed part of their common effort and matched by the efforts and services of the other party for which no further accounting should be required.

10. Any funds put into the partnership by the defendant were capital contributions matched by the efforts of plaintiff.

From the foregoing Findings of Fact, the court now makes the following:

CONCLUSIONS OF LAW

1. There was no common law marriage between the parties, and the parties are not husband and wife.

2. There was a partnership agreement between the parties relating to the real properties set forth in paragraph 7 of the Findings of Fact, which partnership was terminated at the time of the trial of this case, and any contributions made by either of the parties to that time shall be deemed part of their common effort matched by the efforts and services of the other party for which no further accounting is required.

3. All the properties are ordered to be liquidated and after paying any obligations to third parties, net proceeds are to be divided equally between the parties.

4. Plaintiff's first cause of action and all other causes based upon the existence of a common law marriage should be dismissed.

5. No attorney's fees or costs are awarded to either party.

DATED this 17 day of October, 1985.

BY THE COURT;

DISTRICT JUDGE

BY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

ROBIN L. HOUGH,

Plaintiff,

VS.

JOEL E. COLLEY,

Defendant.

J U D G M E N T

CIVIL NO. D 82-3064

Hon. Dean E. Conder

The above-entitled matter came on regularly for trial on the 6th, 7th and 8th of February, 1985, plaintiff appearing in person and by her attorney, B. L. Dart, and defendant appearing in person and by his attorney, J. Thomas Bowen, and witnesses including the parties having been sworn and testified, and exhibits having been received and the matter having been argued and submitted, and the court having received post-trial briefs and having entered its Memorandum Decision, and there having been further argument on the interpretation and content of the Memorandum Decision, and the court now being fully advised and having made and entered its Findings of Fact and Conclusions of Law, now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Plaintiff's First Cause of Action and all other causes of action based upon the existence of a common law marriage are hereby dismissed, with prejudice, no cause of action.

2. There was a partnership agreement between the parties relating to the real properties set forth in paragraph 7 of the Findings of Fact, which partnership was terminated at the time of the trial of this case, and any contributions made by either of the parties to that time shall be deemed part of their common effort matched by the efforts and services of the other party for which no further accounting is required.

3. All the properties are ordered to be liquidated and after paying any obligations to third parties, net proeeds are to be divided equally between the parties.

4. No attorney's fees or costs are awarded to either party.

DATED this 18 day of October, 1985.

BY THE COURT;

DISTRICT JUDGE

August 1976

UNIVERSITY OF UTAH AND AFFILIATED HOSPITALS
50 North Medical Drive
Salt Lake City, Utah 84112

PLAINTIFF'S EXHIBIT 4 082-3061

APPLICATION FOR RESIDENCY OR FELLOWSHIP

I hereby apply for an appointment as a (X) 1st yr. resident ( ) 2nd yr. resident ( ) 3rd yr. resident ( ) Research Fellow ( ) Special Fellow on the Anesthesiology Service. I wish to be considered for a one year _____, two year _____, or a three year X program in Anesthesiology beginning 1 July, 1975 and ending 30 June, 1978

Attach recent small photograph

Name JOEL EVANS COLLEY Sex M.

Addresses 321 BRYAN St, Hot Springs, Montana (present) 1913 Yosemite (permanent)
HAVERTOWN PA 19083 Fort Worth, Texas 7611

Phone 215-789-2820 Phone 817-451 4756

Date of birth 02-22-47 Age 26 Place of birth TEXAS

Married yes Spouse's Name Robin Children (No.) 0

Citizen of USA ECFMG _____

Social Security Number 453-74-0640

State of Health excellent
(list any physical handicaps, if any, on the reverse side)

PREMEDICAL EDUCATION

High School and College	Dates	Degree
La Marque High	1961-65	
University of Texas At Austin	1965-69	

MEDICAL EDUCATION

School	Dates	Degree
University of Texas Medical Branch	1969-1973	MD

INTERNSHIP

Hospital	City	Type	Name of Superintendent	Dates
Univ. of Penn.	Philadelphia	Sgy		June 15, 1973 →

RECEIVED NOV 14 1973 Division of Anesthesiology

Practice

Location	Type of Practice	Dates

Previous Military Service or Present Draft Status (List assignments briefly)

I-O-M

What are your long range plans for the future (regarding clinical training, research and practice) After Completing my residency, I plan to stay in a university Based setting if possible.

Please list research participation or publications (if any) on reverse side:

References -- (list at least three) --preferably physicians who have been in charge of your training or are well acquainted with you in practice:

Name	Address
T. L. Wortham, MD	Univ. of Penn.; Phila., PA
James Duncanway, M.D.	Univ. of Tex. Med. Branch Galveston, T
Richard Penny, M.D.	" " " " " " "

Please do the following:

1. Have those listed as references, the Dean of your medical school and the Medical Education Director or Superintendent of the hospital where you interned, send letters of recommendation for you directly to the Chairman of the Anesthesiology Division, University of Utah.
2. Ask the Dean to include your class standing and transcripts if they are readily available.
3. Enclose a photograph. If it is not available now, please forward it as soon as conve
4. Retain one copy of the application for your file and forward one copy.

Date 11/09/73 Joel E. Colley, M.D.
(Signature of Applicant)

DO NOT WRITE BELOW THIS LINE

1. Letters recommendation received _____ _____
2. Letters from internship received _____ _____
3. Letters from previous Dept. head received _____ _____
4. Letter from Dean received _____ _____
5. Committee action. Date _____ _____

4/74 Interview to be arranged. 75 on phone Tabor CB

UNIVERSITY OF COLORADO MEDICAL CENTER

ull Name JOEL EVANS COLLEY S.S.# 453-74-06

urrent Address 321 Bryan St. Havertown Pennsylvania 19083 Phone ~~215 789-2820~~

ermanent Address 1913 Yosemite Ft. Worth, Texas Use this D.R. Hough 76112

ate of Birth 02/22/47 Place of Birth Texas Citizenship USA

eight 6'1" Weight 175 Sex M Marital Status M Children 0

o you suffer from any physical handicaps or chronic illnesses which may interfere with our ability to perform your duties? NO

icensed to practice medicine in the following states TEXAS

CFMG number (if applicable)
Copy of above document must accompany application)

ilitary Service Draft Status I-O-M Berry Plan Deferment

fter completing residency, what are your plans? I plan to remain within a university setting.

remedical education (Names of schools, addresses, dates of attendance & degrees)

University of Texas at Austin, Tx. 1965-69

edical education (Names of schools, addresses, dates of attendance & degrees)

Univ. of Texas Medical Branch at Galveston, Texas 1969-1973 MD

ternship served: (Name of hospital, address , dates and type of program)

Univ. of Pennsylvania - Straight Sgy - 1973 → Philadelphia, PA.

sidency or Fellowship training (Name of hospital, address, and dates)

PLAINTIFF'S EXHIBIT 5 082-3061

vious experience in anesthesia 2 Rotations in Medical School - as a Junior Student & as a Senior Student

er educational or professional training or experience (Include off-quarter experience, ctives, research experience, other medical education, private practice and locum ens, etc. Give dates and location) Univ. of California San Francisco - Orth. Sg Univ. of Calif. at Davis - Psychiatry Univ. of Kansas - OR - gyn & OB Anesthesia

norary Societies:

ase send reprints of any publications.

e name and address of three persons whom you have asked to furnish letters of fessional recommendation. One letter should concern your pre-medical education or -clinical years. The other two should concern your clinical years and post-doctoral erience. We encourage additional letters from people who know you personally as well professionally. The Dean's letter, with a transcript and class standing is requested in ition to the above references.

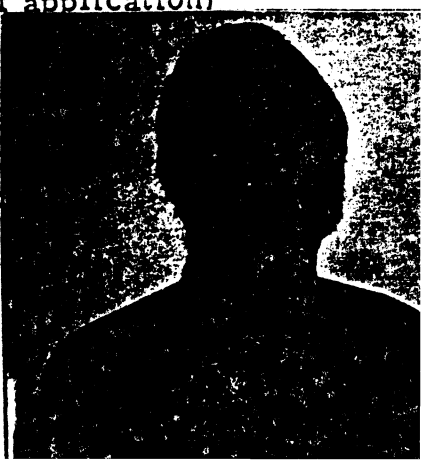
T. L. Worthon, m.d. - Univ. of Penn - Philadelphia, PA
James Dunaway, m.d. - Dept. of Medicine Univ. of Texas Medical Branch - Galveston, Tx. 7755
Richard Penny, m.d. - Dept of Medicine Univ. of Texas Medical Branch - Galveston, Tx. 77550

you come to Denver for an interview? Yes

n appointment is tendered and accepted, it is understood that such acceptance is bindin that any breach of contract will be reported to the appropriate National Medical author

e of Desired Appointment July 1, 1975

ature of Applicant Joel E. Colley, m.d. 10/10/73 (Date of application)



pplications and communications should be addressed to Dr. Chairman, Department of Anesthesia, University of Colorad , Denver, Colorado 80220. Please enclose a small photograph tional material, please feel free to do so.

Recorded at _____ o'clock ____ M., _____

Reception No. _____ Recorder. 8 8 4

THIS DEED, Made this 1st day of October , 1975,

between Tri-Par Realty Company, a Colorado Corporation

of the County of and State of Colorado, of the first part, and Joel E. Colley and Robin Hough Colley

of the City and County of Denver and State of Colorado, of the second part:

FILING STAMP

STATE OF COLORADO
CITY & COUNTY
OF DENVER
FILED IN MY OFFICE ON
Oct 23 1 35 PM '75
RECORDER
1141 446
F.J. SERAFINI
CLERK AND RECORDER
002.00 A - 8

WITNESSETH, that the said party of the first part, for and in consideration of the sum of

Thirty-five Thousand and No/100ths ——————— DOLLARS

and other good and valuable considerations to the said party of the first part in hand paid by the said parties of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said parties of second part, their heirs and assigns forever, not in tenancy in common but in joint tenancy, all the following described lot or parcel of land, situate, lying and being in the City and County of Denver and State of Colorado, to wit:

State Documentary Fee
Date Oct 23, 1975
$ 35.00

PLAINTIFF'S EXHIBIT 8 C82-3064

Lot 36 and the South 18 feet of Lot 37,
EXCEPT the rear or Westerly 6 feet thereof,
Block 332,
CAPITOL AVENUE SUBDIVISION, THIRD FILING,
the plat of which was recorded in Plat Book 6
at Page 15,

Also known and numbered as 753 Steele Street

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said parties of the second part, their heirs and assigns forever. And the said party of the first part, for himself, his ~~heirs~~ executors, and administrators, does covenant, grant, bargain and agree to and with the said parties of the second part, their heirs and assigns, that at the time of the ensealing and delivery of these presents, he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatever kind or nature soever, except all taxes and assessments for the year 1975 and subsequent years; and subject to restrictions of record.

and the above bargained premises in the quiet and peaceable possession of the said parties of the second part, the survivor of them, their assigns and the heirs and assigns of such survivor, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will WARRANT AND FOREVER DEFEND. The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF the said party of the first part has ~~hereunto set his hand and seal the day and year first above written, or if a corporation,~~ caused its corporate name to be hereunto subscribed by its President and its corporate seal to be hereunto ~~affixed and attested by its Secretary the day and year first above written.~~ affixed, attested by its Secretary the day and year first above written.

ATTEST:
Secretary-Treasurer
Tri-Par Realty Company, a Colorado Corporation [SEAL]

By: Kent S. Perry [SEAL]
President

STATE OF COLORADO
City and County of Denver } ss.

The foregoing instrument was acknowledged before me this 1st day of October , 19 75 ,
by Ken S. Parry as President and Steven M. Cohen as Secretary-Treasurer of
Tri-Par Realty Company, a Colorado Corporation
My Commission expires 1/17/76 . 19 . Witness my hand and official seal.

Alexandra Smith
Notary Public

No. 811A. WARRANTY DEED.—To Joint Tenants. —Smallwood Publishing Co., 1624-48 Glenarm Street, Denver, Colorado —4-74

"If by natural person or persons here insert name or names; if by person acting in representative or official capacity or as attorney-in-fact, then insert name of person as executor, attorney-in-fact or other capacity or description; if by officer of corporation, then insert name of such officer or officers, as the president or other officers of such corporation, standing in Statutory Acknowledgment, Sec. 118-8-1 Colorado Revised Statutes 1963.

1141 446

SEAL CITY & COUNTY OF DENVER

STATE OF COLORADO
FHA FORM NO. 2125 M
Revised October 1972

DEED OF TRUST

This form is used in connection with deeds of trust insured under the one- to four-family provisions of the National Housing Act.

THIS INDENTURE, made this 1st day of October in the year of our Lord one thousand nine hundred and SEVENTY-FIVE, between JOEL E. COLLEY AND ROBIN HOUGH COLLEY, Husband and Wife, whose address is 753 Steele Street, the City and County of Denver, State of Colorado, hereinafter referred to as the grantor, and the Public Trustee of the City and County of Denver, State of Colorado, hereinafter referred to as the trustee, Witnesseth:

THAT, WHEREAS, the grantor has executed his certain promissory note, bearing even date herewith, payable to the order of

RELIANCE FUNDING CORPORATION
244 University Blvd.

, hereinafter referred to as the beneficiary, in Denver, Colorado, for the principal sum of THIRTY THREE THOUSAND SIX HUNDRED AND NO/100---------- Dollars ($ 33,600.00), with interest at the rate of Nine per centum (9 %) per annum until paid, and payable as follows, namely: In monthly installments of TWO HUNDRED SEVENTY AND 48/100---------- Dollars ($ 270.48) commencing on the first day of November, 1975, and on the first day of each month thereafter until the principal and interest are fully paid, except that the final payment of principal and interest, if not sooner paid, shall be due and payable on the first day of October 2005. Said principal sum, together with interest thereon, and other payments provided to be made under the terms of this indenture, are hereinafter referred to as the indebtedness;

AND WHEREAS, the grantor is desirous not only of securing the prompt payment of the indebtedness, but also of effectually securing and indemnifying the beneficiary for and/or on account of any assignment, endorsement, or guarantee of the indebtedness;

NOW, THEREFORE, the grantor, in consideration of the premises, and for the purposes aforesaid, has granted, bargained, sold, and conveyed, and does hereby grant, bargain, sell, and convey unto the trustee, in trust forever, all those certain premises and property situate in the City and County of Denver, and State of Colorado, known and described as follows, to wit:

Lot 36 and the South 18 feet of Lot 37,
EXCEPT the rear or Westerly 6 feet thereof,
Block 331,
CAPITOL AVENUE SUBDIVISION, THIRD FILING,
the plat of which was recorded in Plat Book 6,
at Page 15,
City and County of Denver,
State of Colorado

PLAINTIFF'S EXHIBIT 102-3064

008.00 A

STATE OF COLORADO
CITY & COUNTY
OF DENVER
FILED IN MY OFFICE ON
Oct 23 1 35 PM '75
RECORDED 1141 447
F. J. SERAFINI
CITY AND COUNTY RECORDER

U 7 9 8 8 5

TO HAVE AND TO HOLD the same, together with all and singular the privileges and appurtenances thereunto belonging: In Trust Nevertheless, That in case of default in the payment of the indebtedness, or any part thereof, as the same shall become due, or in the payment of any prior encumbrance, principal or interest, if any, or in case default shall be made in, or in case of violation or breach of any of the terms, conditions, covenants or agreements herein contained, then upon notice and demand in writing filed with the trustee as provided by law, it shall and may be lawful for the trustee to foreclose this deed of trust, and to sell and dispose of said premises en masse or in separate parcels (as the trustee may think best) and all the right; title, and interest of the grantor, therein, at public auction at the front door of the Courthouse, in the City and County of Denver, State of Colorado, or on said premises, or any part thereof, as may be specified in the notice of such sale, for the highest and best price the same will bring in cash, four weeks' public notice having been previously given of the time and place of such sale, by advertisement, weekly, in some newspaper of general circulation then published in the county aforesaid or by such other notice as may then be required by law and to issue, execute and deliver his certificate of purchase, Trustee's Deed and/or certificate of redemption all as then may be provided by law; and the trustee shall, out of the proceeds or avails of such sale, after first paying and retaining all fees, charges, the costs of making said sale and advertising said premises, and attorney's fees as herein provided, pay to the beneficiary hereunder, or the legal holder of the indebtedness, the amount of such indebtedness, and all moneys advanced by the beneficiary or legal holder of the indebtedness for insurance, repairs, and taxes and assessments, with interest thereon at the rate set forth in the note secured hereby, rendering the overplus, if any, unto the grantor; which sale or sales and said deed or deeds so made shall be a perpetual bar, both in law and equity, against the grantor and all other persons claiming the premises aforesaid, or any part thereof by, from, through or under the grantor. The legal holder of the indebtedness may purchase said property or any part thereof; and it shall not be obligatory upon the purchaser or purchasers at any such sale to see to the application of the purchase money. If a release deed is required, the grantor hereby agrees to pay all the expenses thereof.

And the grantor covenants and agrees to and with the trustee, that at the time of the ensealing of and delivery of these presents he is well seized of the said premises in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid; hereby fully and absolutely

1141 447

waiving and releasing all rights and claims he may have in or to said premises as a homestead exemption, under and by virtue of any act of the General Assembly of the State of Colorado now existing or which may hereafter be passed in relation thereto; and that the same are free and clear of all liens and encumbrances whatever, and the above bargained premises in the quiet and peaceable possession of the trustee, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the grantor shall and will Warrant and Forever Defend.

And the grantor, in order more fully to protect the security of this Deed of Trust, does hereby covenant and agree as follows:

1. That he will promptly pay the principal of and interest on the indebtedness evidenced by the said note, at the times and in the manner therein provided. Privilege is reserved to pay the debt in whole, or in an amount equal to one or more monthly payments on the principal that are next due on the note, on the first day of any month prior to maturity; provided, however, that written notice of an intention to exercise such privilege is given at least thirty (30) days prior to prepayment.

2. That, together with and in addition to the monthly payments of principal and interest payable under the terms of the note secured hereby, he will pay to the beneficiary, on the first day of each month until the said note is fully paid, the following sums:

(a) An amount sufficient to provide the holder hereof with funds to pay the next mortgage insurance premium if this instrument and the note secured hereby are insured, or a monthly charge (in lieu of a mortgage insurance premium) if they are held by the Secretary of Housing and Urban Development as follows:

(I) If and so long as said note of even date and this instrument are insured or are reinsured under the provisions of the National Housing Act, an amount sufficient to accumulate in the hands of the holder one (1) month prior to its due date the annual mortgage insurance premium, in order to provide such holder with funds to pay such premium to the Secretary of Housing and Urban Development pursuant to the National Housing Act, as amended, and applicable Regulations thereunder; or

(II) If and so long as said note of even date and this instrument are held by the Secretary of Housing and Urban Development, a monthly charge (in lieu of a mortgage insurance premium) which shall be in an amount equal to one-twelfth (1/12) of one-half (½) per centum of the average outstanding balance due on the note computed without taking into account delinquencies or prepayments;

(b) A sum equal to the ground rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other hazard insurance on the premises covered hereby, plus taxes and assessments next due on these premises (all as estimated by the beneficiary) less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, taxes, and assessments will become delinquent, such sums to be held by the beneficiary in trust to pay said ground rents, premiums, taxes, and special assessments; and

(c) All payments mentioned in the two preceding subsections of this paragraph and all payments to be made under the note secured hereby shall be added together and the aggregate amount thereof shall be paid by the grantor each month in a single payment to be applied by the beneficiary to the following items in the order set forth:

(I) premium charges under the contract of insurance with the Secretary of Housing and Urban Development, or monthly charge (in lieu of mortgage insurance premium), as the case may be;
(II) taxes, special assessments, fire and other hazard insurance premiums;
(III) interest on the note secured hereby; and
(IV) amortization of the principal of said note.

Any deficiency in the amount of such aggregate monthly payment shall, unless made good by the grantor prior to the due date of the next such payment, constitute an event of default under this Deed of Trust. The grantee may collect a "late charge" not to exceed two cents (2¢) for each dollar ($1) of each payment more than fifteen (15) days in arrears to cover the extra expense involved in handling delinquent payments.

3. That if the total of the payments made by the grantor under *(b)* paragraph 2 preceding shall exceed the amount of payments actually made by the beneficiary for taxes or assessments or insurance premiums, as the case may be, such excess, at the option of the beneficiary shall be credited by the beneficiary on subsequent payments to be made by the grantor, or refunded to the grantor. If, however, the monthly payments made by the grantor under *(b)* of paragraph 2 preceding shall not be sufficient to pay taxes and assessments and insurance premiums as the case may be, when the same shall become due and payable, then the grantor shall pay to the beneficiary any amount necessary to make up the deficiency, on or before the date when payment of such taxes, assessments, or insurance premiums shall be due. If at any time the grantor shall tender to the beneficiary, in accordance with the provisions of the note secured hereby, full payment of the entire indebtedness represented thereby, the beneficiary shall, in computing the amount of such indebtedness, credit to the account of the grantor all payments made under the provisions of *(a)* of paragraph 2 hereof, which the holder of said note has not become obligated to pay to the Secretary of Housing and Urban Development, and any balance remaining in the funds accumulated under the provisions of *(b)* of paragraph 2 hereof. If there shall be a default under any of the provisions of this Deed of Trust resulting in a public sale by the trustee or trustees of the premises covered hereby, or if the beneficiary acquires the property otherwise after default, the beneficiary shall apply, at the time of the commencement of such proceedings, or at the time the property is otherwise acquired, the balance then remaining in the funds accumulated under *(b)* of paragraph 2 preceding, as a credit against the amount of principal then remaining unpaid under said note, and shall properly adjust any payments which shall have been made under *(a)* of paragraph 2.

4. That he will pay all taxes, assessments, water rates, and other governmental or municipal charges, fines, or impositions, for which provision has not been made hereinbefore, and in default thereof the beneficiary may pay the same; and that he will promptly deliver the official receipts therefor to the beneficiary.

5. That he will keep the improvements now existing or hereafter erected on the said premises, insured as may be required from time to time by the beneficiary against loss by fire and other hazards, casualties, and contingencies in such amounts and for such periods as may be required by the beneficiary and will pay promptly, when due, any premiums on such insurance provisions for payment of which has not been made hereinbefore. All insurance shall be carried in companies approved by the beneficiary and the policies and renewals thereof shall be held by the beneficiary and have attached thereto loss payable clauses in favor of and in form acceptable to the beneficiary. In event of loss the grantor will give immediate notice by mail to the beneficiary, who may make proof of loss if not made promptly by the grantor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to the beneficiary instead of to the grantor and the beneficiary jointly, and the insurance proceeds, or any part thereof, may be applied by the beneficiary at its option either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In event of foreclosure of this Deed of Trust or other transfer of title to the said premises in extinguishment of the indebtedness secured hereby, all right, title, and interest of the grantor in and to any insurance policies then in force shall pass to the purchaser or grantee.

6. That he will keep the said premises in as good order and condition as they are now and will not commit or permit any waste of the said premises, reasonable wear and tear excepted.

7. That if the premises, or any part thereof, be condemned under any power of eminent domain, or acquired for a public use, the damages, proceeds, and the consideration for such acquisition, to the extent of the full amount of indebtedness upon this Deed of Trust, and the note secured hereby remaining unpaid, are hereby assigned by the grantor to the beneficiary and shall be paid forthwith the beneficiary to be applied by it on account of the indebtedness secured hereby, whether due or not.

8. The grantor further agrees that should this Deed of Trust and the note secured hereby not be eligible for insurance under the National Housing Act within from the date hereof (written statement of any officer of the Department of Housing and Urban Development or authorized agent of the Secretary of Housing and Urban Development dated subsequent to the time from the date of this Deed of Trust, declining to insure said note and this Deed of Trust, being deemed conclusive proof of such ineligibility), the beneficiary or the holder of the note may, at its option, declare all sums secured hereby immediately due and payable.

9. That in the event of default in the payment of the indebtedness or any part thereof, or of a breach or violation of any of the covenants or agreements herein, then, and in that event, the whole of the indebtedness and the interest thereon to the time of sale, may at once, at the option of the beneficiary or the legal holder of the indebtedness, be declared due and payable, and the said premises to be sold in the manner and with the same effect as if the indebtedness had matured, and that if foreclosure is made by the trustee, the grantor agrees to pay the sum of Dollars ($), as attorney's fees for services in connection with said foreclosure proceedings, and said attorney's fee shall be allowed and added by the trustee to the cost of foreclosure; and if foreclosure be made through the courts, a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings, and any and all such attorney's fees shall be and become a part of the indebtedness secured hereby.

10. That in case of default, whereby the right of foreclosure occurs hereunder, the beneficiary or the holder of the indebtedness or certificate of sale shall at once become entitled to the possession, use and enjoyment of the property aforesaid, and to the rents, issues and profits thereof, from the accruing of such right and during the pendency of foreclosure proceedings and the period of redemption, if any there be; and such possession, use, enjoyment, rents, issues and profits shall at once be delivered to the beneficiary or the holder of the indebtedness or certificate of sale on request, and on refusal, the delivery of such possession may be enforced by the beneficiary or the holder of the indebtedness or certificate of purchase shall be entitled to a Receiver for said property, and of the rents, issues and profits thereof, after any such default, including the time covered by foreclosure proceedings and the period of redemption, if any there be, and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of the grantor or of the then owner of said property and without regard to the value of the property, and such Receiver may be appointed by any court of competent jurisdiction upon ex parte application, and without notice, notice being hereby expressly waived, and the appointment of any such Receiver, on any such application without notice, being hereby consented to by the grantor for and on his own behalf of his heirs, assigns and legal representatives, and all persons claiming by, through or under him, and all rents, issues and profits, income and revenue of said property shall be applied by such Receiver according to law and the orders and directions of the court.

Notice of the exercise of any option granted herein, or in the note secured hereby, to the beneficiary is not required to be given, the grantor hereby waiving any such notice.

The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the grantor has hereunto set his hand and seal on the day and year first hereinbefore written.

Signed, sealed and delivered in the presence of

Joel E. Colley [SEAL]
JOEL E. COLLEY, HUSBAND

Robin Hough Colley [SEAL]
ROBIN HOUGH COLLEY, WIFE

[SEAL]

[SEAL]

STATE OF COLORADO }
} ss:
COUNTY OF Arapahoe }

The foregoing instrument was acknowledged before me this 1st day of October 19 75, by Joel E. Colley and Robin Hough Colley, Husband and Wife.

WITNESS my hand and official seal.

My commission expires January 15, 1977

[SEAL]

Notary Public

STATE OF COLORADO }
} ss.
COUNTY OF }

I hereby certify that this instrument was filed for record in my office at o'clock M., 19 , and is duly recorded in book page .

Clerk and Recorder

Fees, $

By
Deputy

1141 449

RELIANCE
FUNDING

RIDER SHEET ATTACHED TO AND MADE PART OF DEED

TOGETHER also with any and all award and awards heretofore made and hereafter to be made by any Municipal or State authorities to the present and all subsequent owners of the premises herein described, including any award or awards for any charge or charges of grade of streets, affecting said premises which said award and awards are hereby assigned to the said mortgagee, and the legal representatives, successors and assigns of the mortgagee; and the said mortgagee, for the said mortgagee, and the legal representatives, successors and assigns of the mortgagee (at its or their option) is hereby authorized, directed and empowered to collect and receive the proceed of any such award and awards from the authorities making the same and to give paper receipts and acquittances therefor, and to apply the same toward the payment of the amount owing on this deed and its accompanying bond, notwithstanding the fact that the amount owing on account of this deed and said bond may not be then due and payable; and the said mortgagor for the said mortgagor, and the legal representatives, successors and assigns of the mortgagor, hereby covenants and agrees to and with the said mortgagee and the legal representatives, successors and assigns of the mortgagee, upon request by the holder of this deed to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the aforesaid award and awards to the holder of this deed, free, clear and discharged of any and all encumbrances of any kind or nature whatsoever.

The right of the mortgagee to collect monthly installments of water rates shall be deemed, wherever applicable, in such localities as may have them, to include sewer rents and like charges.

This is a purchase money first mortgage given as part payment of the purchase price for the conveyance of these premises to the mortgagor herein, and this mortgage is intended to be recorded simultaneously with the deed.

TOGETHER with all the right, title and interest of the mortgagors of, in and to any land lying in the bed of the street in front of and adjoining the above premises to the center lines thereof.

DENVER, COLORADO 80206 • 244 UNIVERSITY BLVD. • P. O. BOX 6287 • (303) 320-4104
EAST MEADOW, N. Y. 11554 • 2160 HEMPSTEAD TPKE. • (516) 538-8900 • (212) 353-2901
BROOKLYN, N.Y. 11210 • 1860 FLATBUSH AVE. • (212) 253-2092
NEWBURGH, N. Y. 12550 • 280 BROADWAY STREET • (914) 565-8995
GRAND JCT., COLO. 81501 • 464 MAIN ST. (SUITE #300) • (303) 245-1320
POUGHKEEPSIE, N.Y. 12601 • 80 WASHINGTON STREET • (914) 454-6100

RFC 643 - IM - 4/75

John E. Colley
Helen Dwight Colley

1141 450

/ FREMONT INDEMNITY

THE FREMONT BUILDING

1700 WEST EIGHTH STREET • LOS ANGELES, CALIFORNIA 90017 • (213) 483-0731

To induce COMPANY to become surety for the Undersigned, or to accept the Undersigned as Indemnitor, the Undersigned submits the following Financial Statement.

NOTICE: THIS FORM WILL NOT BE ACCEPTED FROM APPLICANTS FOR CONSTRUCTION BONDS.

STATEMENT OF ASSETS AND LIABILITIES AS OF 6-1-81 19 81 (UNDER DATE OTHERWISE STATEMENT WILL BE RETURNED)

☒ INDIVIDUAL
☐ CO-PARTNE
☐ CORPORATI

ME: Joel E. Colby

SINESS ADDRESS:

PLAINTIFF'S EXHIBIT 24 82-3064

HOME ADDRESS: 781 North Cliff, Salt Lake City, U

LEPHONE:

TELEPHONE: (801) 355 3942 84103

ASSETS			LIABILITIES		
H IN BANK	A	$ 18,000.00	DUE TO BANKS & Mtg. Co.	A	$ 185,752
H ON HAND		$ 10,000.00	FEDERAL INCOME TAX (Paid)		$ 6,00
CKS, BONDS, ETC.	B	$ 15,000	ALL OTHER TAXES		$ 4,00
OUNTS RECEIVABLE	C	$ 65,000.00	ACCOUNTS PAYABLE	C	$ 2,5
ES RECEIVABLE	D	$ - 0 -	NOTES PAYABLE	D	$ 23,0
NTORY AND MERCHANDISE	E	$ 17,500.00			$
UIPMENT	F	$ 10,000	DUE ON EQUIPMENT	F	$ - 0
L ESTATE See Attached Sheet		$ 290,500	~~DUE ON REAL ESTATE~~ See Above	G	$
ER ASSETS Jewelry, etc.	H	$ 35,000	OTHER LIABILITIES	H	$ -
		$			$
		$	CAPITAL STOCK (IF A CORPORATION)		$ - 0
		$ 460,100	SURPLUS — NET WORTH		$ 239,9
TOTAL ASSETS		$	TOTAL LIABILITIES		$ 321,0

EMENT OF EARNINGS

PERIOD BEGINNING Jan 19 82

AND ENDING Dec 1981

GROSS INCOME FROM BUSINESS ACTIVITIES		$ 160,000
GROSS INCOME FROM ALL OTHER SOURCES		$ 35,000
TOTAL INCOME		$ 195,00
EXPENSES OF CONDUCTING BUSINESS (INCL. RENT, INSURANCE ETC.)	$ 30,000	
SALARIES TO OFFICERS OR PARTNERS	$	
DIVIDENDS PAID DURING YEAR	$	
FEDERAL TAXES ACTUALLY PAID DURING YEAR	$ 6,000	
RESERVE FOR FEDERAL TAXES FOR CURRENT YEAR	$ - 0 -	
TOTAL EXPENDITURES		$ 36,00
NET PROFIT OR LOSS		$ 159,0
IF NO PROVISION HAS BEEN MADE FOR FEDERAL TAXES FOR CURRENT YEAR, STATE ESTIMATED AMOUNT		$ 6,000

ANY SUITS, JUDGMENTS OR LIENS OUTSTANDING AGAINST YOU: N/A

YOU EVER FAILED IN BUSINESS OR COMPROMISED WITH CREDITORS? EXPLAIN: No

LINES OF BUSINESS IN WHICH YOU ARE ENGAGED: (1) Physician (Anesthesiologist) (2) Real Estate Consultant

DO YOU HAVE YOUR BOOKS REGULARLY AUDITED BY C.P.A. OR LICENSED ACCOUNTANT? ☒ YES ☐ NO — IF YES, GIVE DATE OF LAST AUDIT AND NAME OF ACCOUNTANT: 1980 - Kenneth

BE ANY CONTINGENT LIABILITIES (ENDORSER, SURETY, INDEMNITOR, ETC.): - 0 -

CREDIT ESTABLISHED: HOW SECURED? Open Personal BY WHOM? Continental BANK

REVERSE SIDE MUST BE COMPLETED

IF NOT SUFFICIENT SPACE, ATTACH SEPARATE SCHEDULES

NAME AND ADDRESS OF BANK	ACCOUNT NO	AMOUNT OF DEPOSIT	IN WHOSE NAME	OWED TO BANK	D
Continental BANK (South Temple) SLC, Ut	7260345	15000	Self	-0-	-

NAME OF SECURITY	NO SHARES	PAR VALUE	MARKET VALUE	IN WHOSE NAME REGISTERED	IF PLEDGED, TO WHI AND FOR WHAT PURP
Utah P & L	100	?	4500	Self	None
Pacific Sunset NM	100	?	5200	"	"
Twix oil	?		5500	"	"

FROM WHOM DUE	AMOUNT	DATE DUE	TO WHOM DUE	AMOUNT	D
Patients	65,000[a]	None	Self		

FROM WHOM DUE	AMOUNT	DATE DUE	TO WHOM DUE	AMOUNT	D
-0-					

DESCRIPTION	COST PRICE	MARKET V
Anesthesiology Equipment (Michen, etc.)	15,000	15,000
Monitoring Equipment	5,000	3 5

DESCRIPTION	COST PRICE	DEPRECIATION CHARGED OFF	BOOK VALUE	ENCUMBRANCE	AMO PAYABLE MO
Business Vehicle	13,500	1st 4m	10,000	—	—

ADDRESS AND DESCRIPTION	IN WHOSE NAME IS TITLE	PRESENT FORCED SALE VALUE	AMOUNT OF MORTGAGE	NAME O MORTGAG
See Attached Sheet				

DESCRIPTION OF OTHER ASSETS	AMOUNT	DESCRIPTION OF OTHER LIABILITIES	AMOUN
Jewelry		-0	
Coins (Au & Ag)	35000[a]		
Stamps			

Authority is hereby granted to any individual, firm or corporation, and any financial institution to furnish FREMONT INDEMNIT ANY upon its request with any information concerning the above statement or pertaining to the Undersigned's financ ing credit or manner of meeting obligations.

SIGNED AND SEALED THIS 23 DAY OF Dec 19 80

IF A CORPORATION, SIGN CORPORATE NAME BY AN AUTHORIZED OFFICER AND IMPRESS CORPO RATE SEAL. IF A PARTNERSHIP, EACH MEMBER OF FIRM SHALL SIGN SIGNATURE BELOW FIRM NAME

Joel E. Tilley, M.D.

BALANCES	OPENING	CLOSING	IF CODE	THIS MONTH	YEAR TO DATE		ACCOUNT NUMBER	OFFICE	NUMBER	AT
CASH ACCOUNT	10430CR	10430CR	DIVIDEND		188436	24444		H14	00780	17
MARGIN ACCTS. EQUITY ACCT			REGISTERED BOND INTEREST				TAXPAYER I.D. NUMBER OR SOCIAL SECURITY NO.	456-92-5893		
REAL ASSETS EQUITY ACCT	10430CR	10430CR	COUPON BOND INTEREST			MGN - INT 1513	STATEMENT PERIOD	FROM	12/01/80	
TOTAL SHORT ACCOUNT			TOTAL		188436			TO	12/31/80	

JOEL E COLLEY MD
ROBIN HOUGH
JTWROS
780 NORTHCLIFF DR
SALT LAKE CITY UT 84103

DATE	QUANTITY	DESCRIPTION	PRICE	DEBIT	CREDIT
1 12 01		BOA CK 0814 00 609	CK	1255 00	
1 12 01	1255	PRICE 1.000 CASH RESERVE MGT INC			1255 00
		PORTFOLIO **********		VALUE **	
1	22365	CASH RESERVE MGT INC	1.000	2236500	
1	100	PUBLIC SERVICE CO OF NEW MEXICO	19.750	197500	
		PORTFOLIO TOTAL VALUE **********		2434000	

AS REQUIRED BY LAW, THE YEAR-TO-DATE DIVIDENDS AND/OR REGISTERED BOND INTEREST SHOWN AT THE TOP OF THIS STATEMENT WILL BE REPORTED TO THE INTERNAL REVENUE SERVICE. COUPON BOND INTEREST AND MARGIN INTEREST, IF ANY, AS SHOWN ABOVE ARE FOR YOUR INFORMATION. DIVIDENDS FROM CASH RESERVE MANAGEMENT ARE NOT ELIGIBLE FOR EXCLUSION OR DEDUCTION FOR FEDERAL INCOME TAX PURPOSES.

NICK BAPIS | 801 322 4711

Statement of Account with

E. F. Hutton & Company Inc.

Main Office
One Battery Park Plaza New York, NY 10004
Telephone (212) 742-5000

Please retain this statement for income tax purposes and also because if changes advised are required by you to verify interest entries appearing on subsequent statements. If not correct, please return immediately.

Checks and securities should be sent by the cashier of the office servicing your account. Instructions and inquiries should be directed to your Account Executive. When making remittances please state on your account number. Please notify us promptly of any change of address.

No one connected with E.F. Hutton & Company Inc. is authorized to render tax advice or to analyze the tax consequences of any transaction.

The quotations of your portfolio do not necessarily reflect prices at which such positions could have been sold at that time, based on the valuation date, particularly in the case of inactively or infrequently traded securities.

Errors and omissions excepted.
See reverse side for further explanation of information contained herein.

FORM 1250 (REV. 5-80)

Gump and Ayers
REAL ESTATE, INC.
2120 SOUTH 1300 EAST
SALT LAKE CITY, UTAH 84106
801 486-8704

① Joel E. Colloy, MD. is ½ owner of Properties bel.
② Robin L. Hough (Colloy) is ½ owner of Properties below:

Address and Type		Purchase Price	Balance	Market Value (as of March)
520 9th Avenue, S.L.C.	Triplex	$40,000.00	$31,900.00	$60,000.00
1358 Roberta, S.L.C.	House	39,900.00	33,000.00	44,000.00
382 Leslie Avenue	House	43,000.00	40,000.00	45,000.00
514 East Wilson	House	39,000.00	36,000.00	44,000.00
231 East Browning	House	39,900.00	32,000.00	41,000.00
1553 South 400 East	Duplex	45,000.00	42,000.00	59,000.00
Flathead Land	40 Acres	81,000.00	57,700.00	100,000.00
Hot Springs Land		10,000.00	2000.00	13,000.00
780 Northcliffe Drive	House	127,500.00	96,500.00	175,000.00
772 South 700 East	SOLD	32,000.00	Contract balance of $15,000.00	
			371,100.00	581,000.00
				+ 15,000.00 contra
				596,000.00

NET VALUE=$224,900.00

Note: MARKET VALUES were Conservatively estimated in MARCH '80

THE FREMONT BUILDING

1299 WEST EIGHTH STREET • LOS ANGELES, CALIFORNIA 90017 • (213) 482-0...

To Indere COMPANY to become surety for the Undersigned, or to accept the Undersigned as Indemnitor, the Undersigned submits the following Financial Statement.

NOTICE: THIS FORM WILL NOT BE ACCEPTED FROM APPLICANTS FOR CONSTRUCTION BONDS.

E: Robin Hood

STATEMENT OF ASSETS AND LIABILITIES AS OF Dec 31 81

☑ INDIVIDUAL ☐ CO-PARTNE ☐ CORPORAT

PLAINTIFF'S EXHIBIT 35 1082-3064

NESS ADDRESS:

HOME ADDRESS: 781 Northcliffe dr SLC, Utah 84103

EPHONE:

TELEPHONE: 801 355 3642

ASSETS			LIABILITIES		
IN BANK	A	$	DUE TO BANKS	A	$
ON HAND		$	FEDERAL INCOME TAX		$
KS, BONDS, ETC.	B	$	ALL OTHER TAXES		$
UNTS RECEIVABLE	C	$	ACCOUNTS PAYABLE	C	$
RECEIVABLE	D	$	NOTES PAYABLE	D	$
TORY AND MERCHANDISE	E	$			$
MENT	F	$	DUE ON EQUIPMENT	F	$
ESTATE	G	$	DUE ON REAL ESTATE	G	$
ER ASSETS	H	$	OTHER LIABILITIES	H	$
		$			$
		$	CAPITAL STOCK (IF A CORPORATION)		$
		$	SURPLUS — NET WORTH		$
TOTAL ASSETS		$	TOTAL LIABILITIES		$

MENT OF EARNINGS

PERIOD BEGINNING Jan 1 19 80

AND ENDING Dec 31 19 80

GROSS INCOME FROM BUSINESS ACTIVITIES ..... $

GROSS INCOME FROM ALL OTHER SOURCES ..... $

TOTAL INCOME ..... $

EXPENSES OF CONDUCTING BUSINESS ..... $
(INCL. RENT, INSURANCE ETC.)

SALARIES TO OFFICERS OR PARTNERS ..... $

DIVIDENDS PAID DURING YEAR ..... $

FEDERAL TAXES ACTUALLY PAID DURING YEAR ..... $

RESERVE FOR FEDERAL TAXES FOR CURRENT YEAR .... $

TOTAL EXPENDITURES ..... $

NET PROFIT OR LOSS ..... $

IF NO PROVISION HAS BEEN MADE FOR FEDERAL TAXES FOR CURRENT YEAR, STATE ESTIMATED AMOUNT ..... $

...ITEMS SHOWN ABOVE ...

NONE

...YOU EVER FAILED IN BUSINESS OR COMPROMISED WITH CREDITORS? EXPLAIN

LINES OF BUSINESS IN WHICH YOU ARE ENGAGED

DO YOU HAVE YOUR BOOKS REGULARLY AUDITED BY A CERTIFIED OR LICENSED ACCOUNTANT?

☐ YES

IF "YES" GIVE DATE OF LAST AUDIT AND NAME OF ACCOUNTANT

...LIENS AND CONTINGENT LIABILITIES (ENDORSER, SURETY, INDEMNITOR, ETC.)

NONE

CREDIT ESTABLISHED? HOW SECURED?

BANK

REVERSE SIDE MUST BE COMPLETED

NAME AND ADDRESS OF BANK	ACCOUNT NO	AMOUNT OF DEPOSIT	IN WHOSE NAME	OWED TO BANK	DA DI
[illegible]	[illegible]	[illegible]	[illegible]	-0-	
" "	[illegible]	[illegible]	"	-0-	
[illegible]		[illegible]	"		

NAME OF SECURITY	NO SHARES	PAR VALUE	MARKET VALUE	IN WHOSE NAME REGISTERED	IF PLEDGED, TO WHO AND FOR WHAT PURPO

FROM WHOM DUE	AMOUNT	DATE DUE	TO WHOM DUE	AMOUNT	DA DU
[illegible]	[illegible]	[illegible]	[illegible]		
[illegible]		[illegible]			

FROM WHOM DUE	AMOUNT	DATE DUE	TO WHOM DUE	AMOUNT	DA DU
			[illegible]		
	-				

DESCRIPTION	COST PRICE	MARKET VAL

DESCRIPTION	COST PRICE	DEPRECIATION CHARGED OFF	BOOK VALUE	ENCUMBRANCE	PA

ADDRESS AND DESCRIPTION	IN WHOSE NAME IS TITLE	PRESENT FORCED SALE VALUE	AMOUNT OF MORTGAGE	NAME OF MORTGAGE
[illegible]				

DESCRIPTION OF OTHER ASSETS	AMOUNT	DESCRIPTION OF OTHER LIABILITIES	AMOUNT
[illegible]	[illegible]		
[illegible]	[illegible]		
[illegible]			

ty is hereby granted to any individual, firm or corporation, and any financial institution to furnish FREMONT INDEMNITY upon its request with any information concerning the above statement or pertaining to the Undersigned's financial credit or manner of meeting obligations.

D SEALED THIS [illegible] DAY OF [illegible] 19[illegible]

CORPORATION SIGN CORPORATE NAME BY AUTHORIZED OFFICER AND IMPRESS CORPORATE SEAL. IF A PARTNERSHIP EACH MEMBER OF SHOULD APPLY SIGNATURE BELOW FIRM NAME.

[illegible]

[illegible]

Gump and Ayers
REAL ESTATE, INC.
2120 SOUTH 1300 EAST
SALT LAKE CITY, UTAH 84108
801 486-8704

Joel E. Colley is owner of All Properties Below;
Robin L. Hough (Colley) is owner of all properties below!

Address and Type		Purchase Price	Balance	Market Value (as of Mar
520 9th Avenue, S.L.C.	Triplex	$40,000.00	$31,900.00	$60,000.00
1358 Roberta, S.L.C.	House	39,900.00	33,000.00	44,000.00
382 Leslie Avenue	House	43,000.00	40,000.00	45,000.00
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780 Northcliffe Drive	House	127,500.00	96,500.00	175,000.00
772 South 700 East	SOLD	32,000.00	Contract balance of $15,000	
			371,100.00	581,000.00
				+ 15,000.00 cor
				596,000.00

NET VALUE=$224,900.00

Note! Market Values were conservatively determined in Marc

STATE OF MONTANA }
ss.
County of .....

Filed for record this.....day of.....19.....at.....o'clock.....M. and

Recorded in Book..... of Deeds on Page.....of the Records of County of.....,

State of Montana. ....., Clerk and Recorder. By.....

NO. 77 — ESCROW RECEIPT. STATE PUBLISHING CO., HELENA, MONT.

ESCROW RECEIPT

The undersigned Escrow Agent acknowledges receipt from

KENNON E. MAAS and EDNA RAE MAAS, husband and wife, hereinafter referred to as SELLERS, and JOEL E. COLLEY and ROBIN H. COLLEY, Husand & Wife, as BUYERS.

of the following described checks, money, documents or property, to-wit:

Contract for Deed
Notice of Purchaser's Interest
Warranty Deed
Realty Transfer Certificate

which it agrees to hold as Escrow Agent under the following instructions, to-wit:

To deliver to seller the documents as required under the terms of the contract.

This escrow is taken expressly subject to terms, exceptions, provisions and conditions herein stated which are acceptable and approved by all of the parties accepting this receipt or interested in the escrow being as follows:

1. The Escrow Agent shall be liable as a depository only and shall not be responsible for the sufficiency or accuracy of the form, execution or validity of documents deposited hereunder, or any description of property or other thing therein, nor shall it be liable in any respect on account of the identity, authority or rights of the persons executing or delivering, or purporting to execute or deliver any such document or paper.

2. The Escrow Agent shall not be liable for collection items until the proceeds of the same in actual cash have been received; nor shall it be liable for the default in payment of any installment of principal or interest, nor the outlawing of any rights under the Statute of Limitations in respect to any documents deposited; nor for interest on any deposit of money. It may rely upon any paper, document or other writing believed by it to be authentic in making any delivery of money or property hereunder.

3. The Escrow Agent shall be entitled to reasonable compensation for its services; may employ attorneys for the reasonable protection of the escrow property and of itself, and shall have the right to reimburse itself out of any funds in its possession for costs, expenses, attorney fees and its compensation and shall have a lien on all money, documents or property held in escrow to cover same.

4. In accepting any funds, securities or documents delivered hereunder, it is agreed and understood that, in the event of disagreement between the persons herein mentioned or persons claiming under them, or any of them, the Escrow Agent, will and does, reserve the right to hold all money, securities and property in its possession, and all papers in connection with or concerning this escrow, until a mutual agreement has been reached between all of said parties or until delivery is legally authorized by final judgment or decree of court. The Escrow Agent reserves the right to dispose of the escrow by interpleader or other suitable action in the event of controversy.

5. Time is and shall be insofar as the Escrow Agent is concerned of the essence of this agreement and part of the consideration, and a waiver in one instance as to a time condition shall not operate to prevent an objection for any subsequent default in point of time.

Executed at..... FIRST NATIONAL BANK of Plains, Mt.
(NAME OF ESCROW AGENT)

Date..... *By.....*

Approved: *Title.....*

.....
.....
X .....
X .....

Names of Depositors and Grantee.

Here is the Contract Stuff

AGREEMENT AND CONTRACT FOR DEED

THIS AGREEMENT, made and entered into this 30th day of September, 1976, by and between KENNON E. MAAS and EDNA RAE MAAS, husband and wife, hereinafter referred to as Sellers, and JOEL E. COLLEY and ROBIN H. COLLEY, husband and wife, hereinafter referred to as Buyers,

W I T N E S S E T H :

In consideration of the mutual covenants, agreement and payments as herein set forth, and the faithful performance of all covenants hereinafter mentioned to be mutually performed by the parties, said Sellers and Purchasers do hereby agree as follows:

REAL PROPERTY: Sellers have hereby covenanted and agreed to sell and convey to Purchasers, and to their heirs and assigns, in fee simple, free and clear of all encumbrances except as may be of record or herein expressly set forth, by warranty deed, that certain real property situated in the County of Sanders, State of Montana, and more particularly described as follows, to-wit:

> Lots One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), of Block 25 in the townsite of Camas, Sanders County, Montana, according to the official map or plat thereof on file and of record in the office of the Clerk and Recorder, Sanders County, Montana.

IMPROVEMENTS TO REAL PROPERTY AND PERSONAL PROPERTY: Sellers agree to convey the above-described real property with the following improvements and personal property:

1. House
2. Garage
3. Pump House
4. 14' x 14' Shed
5. Furniture
6. Refrigerator
7. Washing Machine
8. Freezer
9. Gas Range
10. Electric Heater (220 volt
11. Oil Heater
12. Black & White Television
13. Dishes
14. Cookware
15. Rototiller
16. Lawn Mower
17. 8' x 24' Rollohome Trailer (furnished)
18. Power Pack Jet Pump (new)

PURCHASE PRICE AND TERMS: Buyers covenant and agree to pay to Sellers the sum of TEN THOUSAND and NO/100 DOLLARS ($10,000.00) in lawful currency of the United States, together with interest on the unpaid principal balance at the rate of Seven percent (7%) per annum, in the following manner:

1. Down Payment: Sellers hereby acknowledge receipt of the sum of One Thousand and No/100 Dollars ($1,000.00) from Buyers as paid the date of this contract.

2. Unpaid Balance and Interest: The unpaid principal balance due on this contract is Nine Thousand and No/100 Dollars ($9,000.00) to be paid as follows:

(a) One Thousand and No/100 Dollars ($1,000.00) principal plus 7% interest on or before September 15, 1977;

(b) One Thousand and No/100 Dollars ($1,000.00) principal plus interest on or before September 15, 1978;

(c) Two Thousand and No/100 Dollars ($2,000.00) principal plus interest on or before September 15, 1979;

(d) Two Thousand and No/100 Dollars ($2,000.00) principal plus interest on or before September 15, 1980;

(e) Three Thousand and No/100 Dollars ($3,000.00) principal plus interest on or before September 15, 1981;

(f) The unpaid balance due of Nine Thousand and no/100 Dollars ($9,000.00) shall draw interest at the rate of 7% per annum commencing as of the date of this contract. All payments, both principal and interest, shall be paid to the account of the Sellers at the First National Bank, Plains, Montana, according to the above schedule.

PREPAYMENT: The Buyers shall have the privilege of prepaying all or part of the unpaid balances, without penalty, at any time.

POSSESSION: Buyers shall have possession of said land and premises as of the date of this contract.

TAXES AND ASSESSMENTS: Sellers agree to pay the 1976 taxes and assessments levied against the property and Buyers agree to pay all subsequent taxes and assessments.

INSURANCE: Sellers agree to provide insurance on said property until June, 1977 and thereafter Buyers shall acquire and maintain insurance for the balance of the contract period.

TITLE INSURANCE: It shall be the responsibility of the Buyers to purchase title insurance for the property; a copy of which policy shall be deposited in escrow.

WARRANTY DEED: Sellers agree to execute a Warranty Deed to Buyers and deposit the same in escrow, said Warranty Deed to be delivered to Buyers upon their full performance of the terms and conditions herein required.

QUIT CLAIM DEED: Buyers agree to execute and deliver into escrow a Quit Claim Deed which reconveys the herein described property to Sellers. It is agreed that said Quit Claim Deed shall be held in escrow and shall only be delivered to Sellers in the event this Contract is terminated in the manner as hereinafter set forth in the default provisions of this Contract.

DEFAULT: In the event Buyers fail or neglect to make any of the payments of principal or interest when due, or fail to or neglect to perform any of the covenants which Buyers have agreed to perform, then the Sellers may, at their option, give a written Notice of Default to Buyers setting forth the default claimed by Sellers. The Notice shall be sufficient if it describes the default in general terms.

(a) If within 45 days of the date of service of said Notice of Default, the Buyers correct and make good the payments and obligations then in default as set forth in said notice, then Buyers' rights under this contract shall be fully reinstated and this contract shall continue the same as if no default had occurred. Buyers agree to reimburse Sellers for all legal expenses incurred by Sellers in giving and serving the Notice of Default. The amount of such expense shall be specified in said Notice of Default and shall be paid by Buyers at the time of correcting such default.

(b) However, if the Buyers fail or neglect to pay, correct or make good such default, as set forth in said Notice, within 45 days from the date of service of said Notice, then, without further notice of any kind, the Sellers, at their option, may either:

(i) Declare the entire unpaid balance due on contract including principal and interest, immediately due and payable, and said entire unpaid balance shall become due immediately. In such event, Buyers agree to pay Sellers all costs of collection including a reasonable attorney's fee;

or

(ii) Declare this contract immediately terminated and cancelled. Sellers' election to terminate this contract shall be signified by the Sellers making written demand upon the Escrow Agent to terminate the escrow and return all escrowed documents to Sellers. This contract shall be deemed terminated as of the date said demand is delivered to said Escrow Agent.

(c) It is mutually agreed that 45 days is a reasonable and sufficient notice to be given to said Buyers in case of their failure to perform any of the covenants on their part hereby made and entered into, and to cancel all obligations hereunder on the part of the Sellers.

(d) In the event Sellers declare this contract terminated, in the manner herein set forth, the Sellers shall immediately be fully reinvested with all right, title and interest in and to the real and personal property agreed herein to be conveyed or sold, and any improvements thereon or property substituted therefore, and Buyers shall immediately have no claim against or right, title or interest in and to this contract or in and to any of the property herein described or any improvements thereon.

(e) All sums of money paid, and all improvements made, by Buyers prior to the termination of this contract shall be retained by Sellers as a reasonable rental for the use of said property and to reimburse Sellers for their time and expense and for having had the property encumbered.

(f) Upon the termination of this contract in the manner herein set forth, Buyers shall immediately surrender possession of all said property to Sellers in a peaceable manner.

NOTICE: It is agreed that the written notice required under the Default provisions of this contract, or any notice required herein, may be served upon the Buyers by either personal service, or by registered or certified mail directed to the Buyers at the following address:

Joel and Robin Colley
812 E. Claybourne Avenue
Salt Lake City, Utah 84106

Service by mail shall be complete, and the notice period for termination of this contract shall commence to run, on the date sai notice is deposited in any U.S. Post Office, addressed to the Buyer

REPRESENTATIONS: Buyers acknowledge that they have personally inspected and examined the property covered by this agreement and are thoroughly familiar with the same and acknowledge that they are entering into this agreement based upon their own examination and inspection and that no representations of any kind or character have been made by the Sellers or anyone acting on the Sellers' behalf to induce the Buyers to enter into this agreement.

WASTE AND REPAIRS: The Buyers agree to keep said premises in good repair during the existence of this contract, and not to commit or permit any waste on said premises.

PAYMENTS A LIEN: In case of Sellers' failure to deliver titl pursuant hereto, the amount of all payments made by the Buyers shall be a lien upon said property in favor of the Buyers to secur the return of said payments to them.

ESCROW AGENT: The parties hereto do hereby designate the FIRST NATIONAL BANK of Plains, Montana as escrow agent, and agree that all payments required herein shall be paid to said escrow agent. Said parties further agree to deposit with said escrow agent the original or an executed duplicate of this contract, a Warranty Deed, Quit Claim Deed, Title Insurance Policy, and such other documents agreeable to the parties; this contract shall constitute the escrow agent's instructions. Said escrow agent shall receive such payments on behalf of Sellers, and shall deliver all escrowed docments to Buyers upon Buyers' full performance of the terms of this contract.

1. In the event the Buyers default under any of the terms of this contract, and in the further event Sellers give Notice of Termination of Contract as herein provided, said escrow agent, upon request of Sellers and upon receipt of either affidavit, certificate of a sheriff or other public officer, or other proof satisfactory to such escrow agent that Notice of Termination has been given to Buyers

as herein provided, and that said Buyers have failed to pay the sums demanded or perform the obligations within the time provided in such notice, shall return to Sellers all documents deposited in escrow.

ESCROW FEES: All escrow fees, including opening, annual and collection, shall be paid by Sellers.

ATTORNEY'S FEES AND COURT COSTS: In case suit or action is instituted to enforce compliance with any of the terms, covenants or conditions of this agreement, there shall be paid to the Sellers in such suit or action by the other party the Seller's costs and such further sum as the Court may adjudge as reasonable attorney's fees, and in the event any appeal is taken from judgment or decree in such suit or action, the Seller's appeal costs and attorney fees.

TIME OF THE ESSENCE: It is mutually agreed by and between the parties hereto that the time of payment shall be an essential part of this contract, and that all of the covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators and assigns of the respective parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year hereinabove first written.

KENNON E. MAAS

JOEL E. COLLEY

EDNA RAE MAAS

ROBIN H. COLLEY

SELLERS

BUYERS

STATE OF MONTANA)
) ss.
County of Sanders)

On this 20ND day of September, 1976, before me, the undersigned, a Notary Public for the State aforesaid, personally appeared KENNON E. MAAS and EDNA RAE MAAS, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Noel K. Larrivee, Notary Public for the State of Montana, Residing at Missoula, Montana; My Commission expires August 12, 1979

(NOTARIAL SEAL)

STATE OF [illegible])
) ss.
County of [illegible])

On this [illegible] day of September, 1976, before me, the undersigned, a Notary Public for the State aforesaid, personally appeared JOEL E. COLLEY and ROBIN H. COLLEY, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of [illegible]
Residing at [illegible]
My Commission expires [illegible] COMMISSION EXPIRES MAY 14, 1977

(NOTARIAL SEAL)

HS doctors await hospital ruli

By Lenora Brown

HOT SPRINGS — The Medical Auxiliary met at the home of Mrs. Bertha Wells with Mrs. Beverly Watts as co-hostess Wednesday. Discussion on calling shut-ins and senior citizens on their birthday was held. They plan to show a film, "Breast Cancer and the Pap Test" soon.

Dr. Donald Counts was present to announce the doctor's office would be closed for a short while depending upon the outcome of the meeting in Helena Nov. 22.

Dr. and Mrs. Joel Colley are using this time to take a quick trip home to Texas to visit relatives.

The Monday Moderns met at the home of Mrs. Cora French Tuesday for a demonstration on bread dough artistry by Marilyn Pusich. Christmas baskets and ornaments for the tree were made and then shellacked. This makes them last indefinitely and it is surprising how beautiful they are.

M&M Herman Crismore felt quite lucky this week end. Their son, Robert Crismore of Spokane, stopped for a short visit Saturday en route to Columbia Falls. Sunday Phil and two sons of Plains and Bill and stepson of Libby stopped by to visit their parents while out hunting.

Donna Cross drove a bus load of students to Missoula Monday for a skating party. Forty-five students attended, courtesy of the Bible Church. Chaperones were Monte Ausland, M&M Sid Cross. Three hundred eighteen students met at the roller rink from the Mission field stretching from Salteze to Lolo and including Hot Springs.

A bridal shower honoring Mrs. David Erchul was held at the home of Mrs. Ray Jorgenson with Mrs. Jack Marrinan serving as co-hostess Friday evening. Ladies of Camas Prairie were present as well as Mrs. Dorothy Click of Plains, mother of the honoree.

A dance was held at Perma Saturday evening honoring Sue Charlo's birthday.

M&M Norm Bouldin of Columbia Falls spent the week end visiting her sister, M&M Bert Deglow.

Tuesday evening Mrs. Deglow entertained the Junior Fellowship of the Presbyterian Church.

M&M Arthur Detienne and M&M Delmar Detienne went to Plentywood recently to attend the wedding of Soren Detienne, son of M&M Victor Detienne, to Mary Ann Chandler, daughter of M&M Faye Chandler. Soren is the grandson of M&M Arthur Detienne.

Mrs. Lennae Lowney of Rochester, Mn. arrived Monday to visit M&M Virgil Pitts and her many friends. She expects to spend Christmas with her son and family in Seattle.

M&M Jack Huntsinger and Pat Orchutt of Conrad spent a few hours visiting M&M Clarence Fowler Thursday en route home from Seattle.

Also visiting at the Fowler-Halverson home recently was Mrs. Harold Smith of Spokane, niece of Mrs. Fowler and Mr. Halverson.

Mrs. Minnie Grant returned Monday from Spokane where she visited her daughter and son-in-law.

M&M Tom Jaques and daughter, Joy, spent the week end visiting their daughter, Mrs. Beverly Scott in Missoula.

The Junior Girl Scouts are making favors for the Hot Springs Convalescent Home for Christmas. Mrs. Brenda Knapp is their leader.

Mrs. Agusta Christensen and sister left Sunday for Pismo Beach, Ca. because of illness of their mother.

Verne Lavik of Seattle, executive director of World Mission Prayer League, will be the guest speaker at Trinity Lutheran Church Sunday at both the 11 a.m. and 8 p.m. services and Monday and Tuesday evenings at 8 p.m. Lavik has been traveling in the hunger area countries.

M&M Tom Matchett drove to Spokane Monday for overnight with M&M Ed York, who had been visiting them for approximately a week. They returned with a pickup truck.

Mrs. Stella Holyk left Saturday by plane from Kalispell to Seattle, where she will be employed as a cashier in a cafeteria.

Wednesday Marjorie W. Johnson of Bridger, worthy grand matron of the Grand Chapter of Montana, OES made her official visit to the Hot Springs Chapter.

This was observed by a noon luncheon served at the Masonic Hall. A 6:30 p.m. potluck dinner honoring Mrs. Johnson was also enjoyed by the members.

Eastern Star members from Kalispell, Eureka, Ronan, Superior, Plains and Richey were present as well as a Hot Springs member who now resides in Rochester, Lanai Lowney.

A meeting of the district director Charlotte Wilhelm of Polson was made Thursday evening to the local BPW Club at the home of their president, Grace Welton. One guest, Mrs. Anne Zimmer, was also present.

Mrs. Janet England of Missoula with a friend who is visiting from Munich, Germany was in town Saturday renewing acquaintances made while her husband had served the Presbyterian Church.

The friend has toured the U.S. and is returning to her sister's in Minneapolis, Minn. Mrs. England wanted her to be sure to know about Hot Springs, the mountains which are like her home, and Flathead Lake.

Miss Gladys Sipes returned Thursday from Stevensville where she had spent a week visiting her brothers, Bert and Dick Sipes and families.

Mrs. Ralph Russell and grandson, Russell Heaton, returned Tuesday from Renton, Wa., where they attended the wedding of Ronda Heaton, daughter of M&M Varr Heaton to Jess Amador. Russell served as an usher at his sister's wedding. The young couple are living at 527 37th S.E. Auburn, Wa. Amador came out of the service in October and took a position with General Service Administration in the drafting department. His first assignments happened to be drawing maps of Ft. Missoula and the Little Bitterroot Valley and putting in the names of the towns.

While Chuck Prosser was working Friday afternoon he had the misfortune of losing his two middle fingers on his right hand when he reached into the saw to push a stump out of the way. He was rushed to Plains and then on to Community Hospital where they felt he might be able to have his fingers saved. M&M Manford Tempero took Mrs. Prosser and daughter to Missoula to be with him Friday evening.

M&M Lonney Buck and DeAnn spent the week end in Spokane visiting their daughter, Debbie Buck, who is attending Whitworth College. The occasion was Debbie's birthday. Sunday the Bucks attended a concert by the Whitworth band of which Debbie is a clarinetist.

Mrs. N.G. LaRue returned from St. Patrick Hospital Friday where she has been for the past two weeks. Mrs. Clifford Cason of Helena came to take care of her mother.

Mrs. Lillian Crary is in the Plains hospital.

The Martha Circle of Trinity Lutheran Church met at the home of Mrs. Anna Almo Thursday with Mrs. Marian Merritt as hostess. Mrs. L.O. Lassesson gave the reading for the afternoon, "Burden Made Light."

M&M Kenneth Fox went to Kalispell Thursday for their 30th wedding anniversary at the Outlaw Inn. Saturday they attended the opening of the Doug Allard's Flathead Indian Trading Post in St. Ignatius.

M&M Barney Lambert and family spent the week end visiting their parents, M&M Harold Adams of Lonepine. Harold had surgery in the Plains Hospital last week.

Mae Hamilton has left for Apache Junction, Az. to spend the winter months.

M&M Howard Buck spent the Veteran's week end visiting their daughter and son-in-law, M&M Colin Andrews and family in Kalispell.

Bessie Olson is in the Kalispell hospital.

Beulah Snider has spent several days in the Polson hospital.

M&M Kenneth Blush are parents of a daughter born Nov. 9 in the St. Ignatius hospital. She weighed in at 7 lbs. 1 oz. She joins a 10½ year old sister. Paternal grandparents are M&M Robert Blush of St. Ignatius and maternal grandparents M&M Jack Anderson of Austin, Tex. The young miss has been named Kimberly Kae.

Chisholm-Harris vows

HOT SPRINGS — In a 7 p.m. candlelight ceremony Saturday in the Presbyterian Church here Violet Chisholm, daughter of M&M Don L. Chisholm, became the bride of Herbert Harris, [illegible] John

Julie Knight of Charlo, cousin of the g
her aunt, Billie Chubb, all attired in
single yellow rose. Flower girl was S.
groom, and ring bearer was Billie
bride who also helped to usher and
The other usher was Randy Molin
other candllighter was Mike Knight o

A reception followed in the c
assisting were Kate McDonald, pun
cake and Jean Moline, coffee and te
charge of the registration.

Mrs. Mary Chubb, maternal grand
Cox, paternal grandmother from Wh
both present as well as many other r

M&M Stanley Harris were hosts
home of his sister, Mrs. Billie Schaeff
wedding party.

The groom is taking his bride to a
land at Round Butte where they will

Finnigan-McC

NOXON — Oct. 26 in the Noxon Community Church, which had been decorated with baskets of large yellow and white mums, Rebecca Finnigan, daughter of M&M, William Finnigan of Noxon, became the bride of Richard Joseph McCallum, son of M&M Babe McCallum of Libby.

Prior to the wedding Mrs. Harry Knowlton played several selections on the piano. "Hawaiian Love Song" was sung by Nancy Gerstenberger.

Ushers were Thomas Groff of Pasco, Wa. and Kenneth Henjuim of Spokane. The bride's sister, Mrs. Thomas Groff, was her only attendant. Deborah Groff was flower girl, niece of the bride. The bride's nephew, Mark Groff, was ring bearer.

The bride came down the aisle on the arm of her father. She was dressed in the traditional, long white dress of lace and net with a long train of white chiffon. The dress had an empire neckline with a large lace collar accented with a large bow in the back, long puffed sleeves were edged in lace and the floor length veil was attached to a pearl headpiece. The bride carried a Boliquet of red and pink rosebuds with yellow mums. For something borrowed she wore pearl earrings, for something blue she wore the blue garter and for something old both the bride and matron of honor carried handkerchiefs of Chinese silk that had belonged to their paternal grandmother more than 80 years ago.

The matron of honor wore a long dress of soft nylon of variegated flowers in green and pink. Her dress had a large ruffle on the bottom and wore a large peach colored hat.

Immediately following the ceremony, a reception was held in the basement of the